Supreme Court of the United States

OCTOBER TERM, 1966

No. 1036

NATIONAL LABOR RELATIONS BOARD,
PETITIONER

vs.

FLEETWOOD TRAILER CO., INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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[fol. A]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

TWENTY-FIRST REGION

Case No. 21-CA-6160

FLEETWOOD TRAILER CO., INC.

and

LIONEL RICHMAN

COMPLAINT AND NOTICE OF HEARING—December 11, 1964

It having been charged by Lionel Richman, herein called Richman, that Fleetwood Trailer Co., Inc., herein called Respondent, has engaged in, and is engaging in, unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, *et seq.*, herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the undersigned Regional Director, issues this Complaint and Notice of Hearing, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, and alleges as follows:

1. The charge was filed by Richman on September 10, 1964, and served on Respondent on September 10, 1964, by registered mail.

2. Respondent is now, and has been at all times material herein, a California corporation engaged in the manufacture of mobile homes, with its place of business at Riverside, California. In the course and conduct of its business operations, Respondent annually purchases and receives goods valued in excess of $50,000 directly from

[illegible] annually sells and distributes its products valued in excess of $50,000 directly to customers located at points outside the State of California.

[illegible] is now, and at all times material herein has been, an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[illegible] 4. The San Bernardino-Riverside Counties District Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, herein called the Union, is now, and at all times material herein has been, a labor organization within the meaning of Section 2(5) of the Act.

5. From on or about August 6, 1964, to on or about August 18, 1964, certain employees of Respondent ceased work unanimously and went out on strike.

6. On or about August 20, 1964, Mary Nevins, Lenny Painter, Luther Burnside, James Fuller, David Davis and Ronald Eisch, all of whom were employed by Respondent and who had engaged in the strike referred to in paragraph 5 above, made an unconditional offer to return to work.

7. Since on or about August 20, 1964, and at all times since, Respondent has failed and refused, and continues to fail and refuse, to reinstate the employees named in paragraph 6 above.

8. Respondent did fail and refuse, and continues to fail and refuse, to reinstate the employees named in paragraph 6 above for the reason that said employees had joined or assisted the Union, or engaged in other concerted activities for the purposes of collective bargaining or mutual aid or protection by participating in the strike described in paragraph 5 above.

9. By the acts described in paragraphs 7 and 8 above, and by each of said acts, Respondent did discriminate and is discriminating, in regard to the hire or tenure or terms of employment of its employees to discourage membership in a labor organization, and Respondent thereby did engage in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(3) of the Act.

10. By the acts and conduct described in paragraphs 7 through 9 above, and by each of said acts, Respondent did interfere with, restrain, and coerce, and is interfering with, restraining and coercing, its employees in the exercise of their rights guaranteed in Section 7 of the Act, and did thereby engage in, and is thereby engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.

11. The acts and conduct of Respondent described in paragraphs 7 through 10 above, occurring in connection with the operations of Respondent's business described in paragraphs 2 and 3 above, have a close, intimate, and [fol. C] substantial relation to trade, traffic, and commerce among the several states, and have led, and tend to lead, to labor disputes burdening and obstructing commerce and the free flow of commerce within the meaning of Section 2(6) and (7) of the Act.

12. The acts and conduct of Respondent described in paragraphs 7 through 11 above constitute unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (3) and Section 2(6) and (7) of the Act.

PLEASE TAKE NOTICE that on the 3rd day of February 1965, at 10 a.m., PST, in Hearing Room # 1, Mezzanine Floor, 849 South Broadway, Los Angeles, California, a hearing will be conducted before a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four copies of an answer to said Complaint within 10 days from the service thereof and that unless it does so all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board.

DATED at Los Angeles, California, this 11th day of December 1964.

/s/ Ralph E. Kennedy
Regional Director
National Labor Relations Board
Region 21
849 South Broadway
Los Angeles, California 90014

GENERAL COUNSEL'S EXHIBIT 1(c)

[fol. D]

* * * *

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

TWENTY-FIRST REGION

No. 21-CA-6160

FLEETWOOD TRAILER CO., INC.

and

LIONEL RICHMAN

RESPONDENT'S ANSWER

Fleetwood Trailer Co., Inc. ("Respondent") answers the Complaint in the above entitled matter as follows:

1. Answering paragraphs 1, 2, 3, 4, 5, and 6, Respondent admits the allegations of said paragraphs.

2. Answering paragraph 7, Respondent denies each and every allegation of said paragraph and alleges that Mary Nevins, Lonny Painter, Luther Malzahn, James Fuller, David Davis and Ronald Kluth were ordinary economic strikers and had been permanently replaced prior to their offer to return to work.

Respondent further alleges that Mary Nevins was offered reemployment on December 8, 1964 but stated that she was only recently out of the hospital and could not obtain medical permission to resume employment until "some time after Christmas".

Respondent further alleges that the other persons named were reemployed as follows:

Lonny Painter—November 2, 1964;
[fol. E] Luther Malzahn—November 2, 1964;
James Fuller—December 14, 1964;
David Davis—November 2, 1964;
Ronald Kluth—December 14, 1964.

3. Answering paragraphs 8, 9, 10, 11, and 12, Respondent denies each and every allegation of said paragraphs.

/s/ Hugh J. Scallon
GIBSON, DUNN & CRUTCHER
Attorneys for Respondent

GENERAL COUNSEL'S EXHIBIT 1(h)

[fol. F]

[Proof of Service by Mail—Omitted in printing]

[fol. 1]

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

TWENTY-FIRST REGION

Case No. 21-CA-6160

IN THE MATTER OF:

FLEETWOOD TRAILER CO., INC., RESPONDENT

and

LIONEL RICHMAN, CHARGING PARTY

TRANSCRIPT OF HEARING—Wednesday, February 17, 1965

Hearing Room 2, 849 South Broadway, Los Angeles, California

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 o'clock a.m.

BEFORE:

WALLACE E. ROYSTER, Trial Examiner.

APPEARANCES:

BRUCE H. BERRY, ESQ., 849 South Broadway, Los Angeles, California, appearing as Counsel for the General Counsel.

GIBSON, DUNN & CRUTCHER, By: HUGH J. SCALLON, ESQ., 9601 Wilshire Boulevard, Beverly Hills, California, appearing for the Respondent.

* * * *

[fol. 4]

* * * *

OFFERS IN EVIDENCE

MR. BERRY: I offer into evidence the formal documents in this case. They have been marked as General Counsel's Exhibits 1(a) through 1(i), inclusive, Exhibit

1(i) being a description and index of the formal documents.

They have already been shown to the opposition party.

MR. SCALLON: No objection.

TRIAL EXAMINER: All right. General Counsel's Exhibits 1(a) through 1(i) are received.

(The documents above referred to were marked General Counsel's Exhibits Nos. 1(a) through 1(i) for identification and were received in evidence.)

MOTION TO AMEND COMPLAINT AND GRANTING THEREOF

MR. BERRY: At this time I would like to move the complaint, Paragraph 7 and 8 in particular, be amended as follows:

"7. a. Respondent failed and refused to reemply Lonny Painter, Luther Malzahn and David Davis from on or about August 20, 1964 to on or about November 2, 1964.

"b. Respondent failed and refused to reemploy Mary Nevins from on or about August 20, 1964 to on or about December 8, 1964.

"c. Respondent failed and refused to reemploy Ronald Kluth and James Fuller from on or about August 20, 1964 to on or about December 14, 1964.

"Paragraph 8 to read as follows:

[fol. 5] "8. Respondent did fail and refuse to reemploy the employees named in paragraphs 6 and 7 above for the reason that said employees had joined or assisted the Union, or engaged in other concerted activities for the purposes of collective bargaining or mutual aid or protection by participating in the strike described in paragraph 5 above."

TRIAL EXAMINER: Were you aware of the tendency of this amendment?

MR. SCALLON: I was aware of it, Mr. Examiner, and I have no objection.

TRIAL EXAMINER: Very well. The complaint is amended as moved.

* * * *

MR. BERRY: At this time I would like to offer the [fol. 6] following stipulation:

"It is hereby stipulated that on October 8, 1964, Respondent hired Eddie Latinsky as a cabinet assembler to work on frames. On October 12, 1964, Respondent hired Gilbert Herrara as a cabinet assembler, Jimmy Benson as a flooring employee, and Everett Leffen as a sidewall employee. On October 13, 1964, Respondent hired Dwayne Nash as a finisher, and on October 16, hired Billy Valk as a cabinet setter. Respondent did not offer any of the above-named positions to Mary Nevins, Lonny Painter, Luther Malzahn, James Fuller, David Davis, or Ronald Kluth before hiring the above-named employees, and that Latinsky, Herrara, Benson, Leffen, Hash, and Valk had not previously worked for Respondent."

TRIAL EXAMINER: Is that your stipulation?

MR. SCALLON: So stipulated.

TRIAL EXAMINER: Very well. It is noted.

MR. BERRY: I call as my first witness James Fuller.

* * * *

Whereupon,

JAMES ERVING FULLER

[fol. 7] was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.

A My name is James Erving Fuller, 3943 Fourth Street, Riverside, California.

Q Where do you work, Mr. Fuller?

A Fleetwood Trailer Company.

Q When did you originally start working for Fleetwood?

A Approximately the middle of November, 1963.

Q What is your present job with Fleetwood?

A I am on a finishing crew.

Q Who is your foreman?

A Bill Heimer.

Q What is your job on the finishing crew?

A Ffnishing ceilings and washing them, and repairing various things.

Q How long have you been on the finishing crew?

A Since December of 1964.

Q So it would be about two months.

A Yes.

Q Did you have a job with Fleetwood before you were on the finishing crew?

A Yes.

[fol. 8] Q What job was this?

A I was bulkhead in the cabinet shop.

Q What were you doing with bulkheads?

A Making them.

Q When you were making or assembling bulkheads, what tools did you use?

A I used two sizes of staple guns, tape measure, power tools, such as router, and occasionally an electric air drill and hammer, a putty knife, and tape measure.

Q Who was your foreman while you were assembling bulkheads?

A The latest one?

Q Yes.

A Rod Reareta.

Q About how long did you assemble bulkheads?

A Approximately ten months.

Q Can you describe how you assembled a bulkhead?

A I would take precut lumber and put it on a jig, and then staple the lumber together and take it off the jig and remove the jig from the table and put the frame back on the table and glue down the frame and put panels on the frame, and staple that to the frame, rout it, or cut the edges down so that they are even on both sides of the frame, and take it off the table and give it to the next man that takes care of it.

[fol. 9] Q While you were assembling bulkheads did you have occasion to perform any other jobs?

A Yes.

Q How many?

A Approximately three or four.

Q Which jobs were these?

A The cutout saw, the table saw, put wardrobes on,

doors, and occasionally help it out on the kitchen counter table.

Q What did your job on the table saw consist of?

A Cutting panels to required sizes for panelling of wardrobes and walls.

Q How would you go about this job?

A The sheets come in 84 by 94 or 96 length, and you put it on the table saw and put the table saw on it and run it to width.

Q What was your job on the cutout saw?

A Cutout saw is precutting lumber for the frames. There again setting up length on the table saw and putting the lumber on the table saw and cutting through it.

Q What did you do at the door table?

A I would help put skins or panels on the frames and staple them and rout them, and balance the edges, and that would be it.

Q Now, on the wardrobe table what did your job consist of there?

[fol. 10] A Putting frames together on the jig, and putting panels on the frames.

Q Would this be similar to your job of handling bulkheads?

A Yes.

* * * *

[fol. 12]

* * * *

Q Have you observed a flooring employee at work?

A Yes.

Q What tools does a flooring employe use?

A Staple gun, hammer, electric air drill. Basically, that is his tools.

Q Does he use any saws of any type?

A Yes.

Q Which saws would these be?

A The saber saw.

Q From your observation, Mr. Fuller, describe how a flooring employee performs his job.

A Well, he has a jig, and he puts his lumber down on a jig and nails it together and he puts in the metal air

[fol. 13] ducts in the floor. He puts in plumbing where it is necessary, and puts his floor down—plywood flooring down—and cuts out the holes in the plywood to allow for the air ducts and plumbing pipes, and it moves around to the metal carriage.

Q When you say he nails it down, is this done by hammer and nails, or a staple gun?

A They have a large metal piece that has several nails protruding from it, and they use their hammers to nail this piece in.

Q Have you observed the cabinet setter at work?

A Yes.

Q What tool does a cabinet setter use?

A An air drill, hammer, screwdrivers.

Q Have you used any air tools while you have worked at Fleetwood?

A Yes.

Q From your observation, how does a cabinet setter perform his job?

A He takes the cabinets from the cabinet shop and places them on the floor of the trailer and screws it to the floor, and when they put the sidewalls on the trailer he secures the cabinetry to the sidewalls.

When they put the topping on the trailer he secures it to the top.

Q Does he secure them with a screwdriver?

[fol. 14] A With an air screwdriver.

Q In what part of the production line which you have previously described does the cabinet setter perform his operation?

A In the sidewalls department.

Q Have you ever observed a sidewall employee at work?

A Yes.

Q What tools does a sidewall employee use?

A Staple gun and hammer are his basic tools.

Q Describe how a sidewall is put together.

A He also has a jig and he makes a frame, and they panel it with different colors of panels and types of panels, depending on which room is along this sidewall. They drill holes or cut out holes for windows and doors, and

turn it over to insulate it, and then they put it on the trailer.

Q Do you consider a person assembling sidewalls to be similar to a person assembling bulkheads?

A Yes.

* * * *

[fol. 17]

* * * *

OFFERS IN EVIDENCE

MR. BERRY: I would like to have marked as General Counsel's Exhibit 2 for identification an application for employment form dated November 9, 1963, and signed by James E. Fuller.

(The document above referred to was marked General Counsel's Exhibit No. 2 for identification.)

MR. BERRY: And marked as General Counsel's Exhibit 3 for identification an application for employment dated August 19, 1964, with the name on top of James Erving Fuller.

(The document above referred to was marked General Counsel's Exhibit No. 3 for identification.)

Q (By Mr. Berry) Mr. Fuller, I show you General Counsel's Exhibit 2 for identification. I will ask you if you recognize this.

A Yes, sir.

Q Describe what it is, please.

[fol. 18] A Pardon me?

Q Can you describe what it is?

A It is an application I filled out for employment at Fleetwood.

MR. BERRY: I offer General Counsel's Exhibit 2 into evidence.

MR. SCALLON: No objection.

TRIAL EXAMINER: Without objection, it is received.

(The document above referred to, heretofore marked General Counsel's Exhibit No. 2, was received in evidence.)

* * * *

Q (By Mr. Berry) Mr. Fuller, I show you General Counsel's Exhibit 3 for identification and ask you if you recognize that.

A Yes, sir.

Q Describe what it is.

A It is an application form for employment at Fleetwood Trailer Company.

Q Can you tell us why you had made out a second application for employment?

[fol. 19] A When I returned after the strike they had me fill it out.

MR. BERRY: I offer General Counsel's Exhibit 3 for identification into evidence.

MR. SCALLON: No objection.

TRIAL EXAMINER: It is received.

(The document above referred to, heretofore marked General Counsel's Exhibit No. 3, was received in evidence.)

Q (By Mr. Berry) Mr. Fuller, after you made your initial offer to return to work in August of 1964, did you then again go to Fleetwood to see if there was any work available?

A Yes.

Q Approximately when did this occur?

A In September.

Q Was it the beginning of September, or middle part, or latter part?

A I am sorry. The latter part of September.

Q Who did you see?

A A gentleman in the front office. I don't know his name.

Q Do you know what position he occupied?

A I think he is an accountant.

Q Where did this meeting take place?

A In the front office.

Q Was anyone else present at the time?

[fol. 20] A Not to my knowledge.

Q About how long did the conversation last?

A Not more than ten minutes.

Q Describe what was said in this conversation.

A I came in and I said that I had been called from Seattle to go to work at Fleetwood, and I was supposed to see Bob Radcliffe.

He said that Bob was busy, and what did I want. I said I had been called to go to work, and he said, "We haven't been hiring in the last two or three weeks," and they didn't expect to in another two or three weeks.

But he went through a pile of applications and pulled out the one I had made in August and said, "Thankyou," and I left.

Q Excuse me. Did you redate the application at that time?

A Yes.

Q Who was Bob Radcliffe?

A He was production manager at the time.

Q I show you General Counsel's Exhibit 3, and above August 19, 1964, the date, there is a second date. Is that the time it was redated?

A Yes, sir.

MR. BERRY: Let the record show the date on top is September 28, 1964.

* * * *

[fol. 21] CROSS-EXAMINATION

Q (By Mr. Scallon) * * *

* * * * *

Q Just to make it a little clearer to the Examiner and people reading the record, the description of the operation of Fleetwood, would you say it is a fair description of the operation of Fleetwood to say that it is an assembly-line operation adapted to mobile homes?

A Yes, sir.

Q The first step is the construction of the metal frame, is that right?

A Yes, sir.

Q And then it is moved on to the next station where the floor is added?

A Yes.

Q And subsequently the walls are erected?

A Yes.

Q Until finally it reaches completion?
A Yes.
Q It follows a regularly scheduled process along this [fol. 22] line, is that correct?
A Yes, sir.
Q And the employees generally perform the same function on each trailer as it goes by?
A Yes, sir.
Q Mr. Fuller, you were in fact re-employed at Fleetwood on December 14, 1964, is that right?
A Approximately, yes.

* * * *

LUTHER MALZAHN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.
A Luther J. Malzahn, 11124 Oriole Drive, Riverside.
Q Where do you now work?
A Fleetwood Trailer.
Q Approximately when were you originally hired by Fleetwood?
[fol. 23] A About May 12th.
Q Is that 1964?
A 1964.
Q What is your present job at Fleetwood?
A I work in the cabinet assembly shop.
Q Who is your foreman in the cabinet assembly shop?
A Right now it is Howard. I don't know his last name.
Q As cabinet assembler what tools do you use?
A Hammer, nail set, putty knife, screwdriver, plane, air drill, sander.
Q Now, what is your job as a cabinet assembler?
A Sanding the doors, painting them, and finishing them, and hinges.
Q Will you describe how you finish a door.

A Well, we first sand it—the edges of the door—or plane the edges of the door, whichever is required. Then we paint them and clean and inspect them and hinge them and drill the holes for the handles, and put them in a stock pile.

Q Now, have you ever had any other jobs at Fleetwood besides finishing doors?

A No.

* * * *

[fol. 26]

* * * *

Q (By Mr. Berry) Now, after you went down to Fleetwood after the strike in August, 1964, did you again go down to Fleetwood to see if there was any employment?

A Yes.

Q Approximately when was this?

A The latter part of August.

Q Did you go down after this—after the latter part of August?

A After the latter part of August? You mean the second time?

Q Yes.

A Yes.

Q When was this second time, approximately?

A I believe in October.

Q Who did you see at this time?

[fol. 27] A Two men in the front office.

Q Do you know what their names were?

A No.

Q How long did the conversation last?

A I asked them if there was any work for me, and they asked me who I was, and they got my application out and had me to sign it and said they would call me if they needed me.

Q Is this the same application you had filled out originally?

A That was my original application. I made another application when I went back the first time after the strike.

* * * *

[fol. 28]

* * * *

RONALD KENNETH KLUTH

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.
A Ronald Kenneth Kluth, 5971 Tyler Avenue in Riverside.
Q Where do you work now, Mr. Kluth?
A Fleetwood Trailers.
Q When did you originally start working for Fleetwood?
A About the middle of September of 1963.
[fol. 29] Q What is your present job at Fleetwood?
A Right now?
Q Right now.
A Cabinet shop, assembling drawers.

* * * *

Q When making drawers what tools do you use?
A Staple gun and hammer.
Q Are those the only tools you use?
A Yes. And a sander and air drill.
Q Describe how you go about making a drawer.
A We have precut materials and you put your backs and two sides on and staple them together and put your bottom on and put your front on, and that makes your box, and you have the prefinished facing to go onto it, and you sand it and paint it, and staple your—glue and staple your facing to the box and drill your holes, and it is completed.
Q Have you had any other jobs while at Fleetwood?
A Yes. I have made room dividers.
Q How did you go about making room dividers?
A We have the precut material and use a jig and staple it together and sand it and paint it, and hang the doors.

Q When you say hang your doors, you mean hang [fol. 30] them in the racks or—

A The room divider—when I was making them they had a little desk and you sanded and painted and hinged your desk lid and put it to the divider, and it was made into a little desk.

Q Now, when you went back to work after the strike what job were you doing at that time?

A Lagging.

Q Describe what lagging is.

A You drill your holes through the outriggers. The holes are in outriggers and you drill through the floors and through the sidewalls and bolt them, and you use an air gun for tightening the bolts.

Q Now, when you say outriggers, Mr. Kluth, what is an outrigger?

A It is pieces of metal that comes out on your chassis.

Q Did you use any other tools while lagging besides an air gun and a drill?

A A ratchet wrench, and sometimes a hammer.

* * * *

[fol. 32]

* * * *

MR. BERRY: I would like to have marked as General Counsel's Exhibit 5 for identification "Application for Employment" dated August 8, 1963, and signed by Ronald Kluth.

(The document above referred to was marked General Counsel's Exhibit No. 5 for identification.)

MR. SCALLON: I will stipulate that is the application.

TRIAL EXAMINER: That was filed on that occasion?

MR. SCALLON: Yes.

OFFER IN EVIDENCE

MR. BERRY: I offer this as General Counsel's Exhibit No. 5.

[fol. 33] TRIAL EXAMINER: The stipulation is noted, and General Counsel's Exhibit 5 is received.

(The document above referred to, heretofore marked General Counsel's Exhibit No. 5, was received in evidence.)

Q (By Mr. Berry) Mr. Kluth, on General Counsel's Exhibit 5 there is a date above the original date which is September 9, 1963. That is the date you went to work, is that correct?

A Yes, I believe so.

Q Now, also on this application on the left-hand margin there is a date September 28, 1964. Can you tell us to the best of your recollection what happened on that date?

A September 28, 1964?

Q Yes.

A I went back to Fleetwood after the strike and asked if they were doing any rehiring.

Q Keep your voice up a little bit.

A I went back to Fleetwood after the strike and asked if they were doing any rehiring yet.

Q Who did you talk to at this time?

A Robert Radcliffe.

Q Was anyone else present during this conversation?

A Not that I recall.

Q What was Mr. Radcliffe's answer?

A He said no.

[fol. 34] Q Meaning no, they were not doing any hiring at that time?

A Yes.

MR. BERRY: You may cross-examine.

CROSS-EXAMINATION

Q (By. Mr. Scallon) Mr. Kluth, when you went back to the company after the strike you did not fill out any new complete application for work, is that correct?

A No, sir.

Q They just entered the dates on which you had been in the office to reapply, is that correct?

A Yes, sir.

* * * *

[fol. 37]

* * * *

TRIAL EXAMINER: On the record.

MR. SCALLON: Mr. Examiner, Counsel for the General Counsel and I have a stipulation which we are prepared to enter into at this time—actually two stipulations:

First of all, it is stipulated that there is no issue in this case as to actual discrimination against these employees aside from the issue whether the employees had been replaced prior to their reapplication for employment.

I am not sure I made myself entirely clear. That is the first stipulation. In other words, there is no claim that there was in fact discrimination against these employees as regards new hires unless they had been replaced.

MR. BERRY: As to that I will stipulate.

Mr. Davis, Mr. David Davis, who is an alleged 8(a)(3), [fol. 38] has not appeared here today. Counsel for the General Counsel is willing to stipulate that during Mr. Davis's employment he was employed as a painter in the cabinet shop at Fleetwood.

TRIAL EXAMINER: As a painter?

MR. BERRY: In the occupation of painter in the cabinet shop.

* * * *

[fol. 39]

* * * *

LONNIE DEAN PAINTER

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.

A Lonnie Dean Painter, 3784 Pacific Street, Riverside, California.

Q Have you ever been employed by Fleetwood Trailer?

A Yes.

Q Whendid you last work for Fleetwood? What month did you last work for Fleetwood?

A I imagine it was in January.

Q What was your last job while you worked for Fleetwood?

A The finishing department. I was the ceiling man.

Q When you worked on ceilings describe what your job was.

A We washed the ceilings down and repaired the holes and painted them.

Q What tools did you use while you worked repairing ceilings?

A A putty knife, hammer, and screwdriver, sponges, and paintbrush, and spatula.

[fol. 40] Q Before the strike in August did you have another job with Fleetwood?

A Yes, I did.

Q What job was that?

A I worked in the finishing department putting on windows and doors.

Q What tools did you use in putting on windows and doors?

A Hammer, screwdriver, air drill, and air screwdriver.

Q Is that an air screwdriver, did you say?

A Yes.

Q Can you describe how you went about putting in the doors and windows in the finishing department?

A First we would take the windows and line them with a line of putty and place them in the opening and screw them in—certain windows we had to measure and make sure they were in line.

Q While you were working in the finishing department did you do anything else inside the trailers at any time?

A Yes, I did. I put light fixtures up and I laid carpets a couple times, and put the molding on the walls and put the cornices up over the windows and the screens and put handles on drawers and doorknobs sometimes. I think that is about it.

Q What tools did yu use doing those particular jobs?

A Hammer, screwdriver, pliers.

* * * * *

[fol. 43]

* * * * *

Q After you made this original offer to return to work in August right after the strike did you again go to Fleetwood to see if there was any work?

A Yes, I did.

Q When was the first time?

A About a couple weeks after.

Q Who did you see at this time?

A Bob Radcliffe.

Q Where did the meeting take place?

A In his office.

Q Was anyone else present?

A Yes.

Q Who was that?

A Wally Rogers and—I forget the other fellow's name —Dave something.

[fol. 44] Q What was said at this time?

A We asked could we have our jobs back, and he told us there was no openings and to try again in a couple months.

Q Was anything else said?

A Not that I recall.

Q Did you go down after this first time again to see if there was any employment?

A Yes.

Q When was the next time?

A A couple weeks after that.

Q Who did you see at this time?

A Bob Radcliffe.

Q Was anyone else present?

A I don't think so.

Q Where did the meeting take place?

A In the front office.

Q Can you tell us what was said at this time?

A I asked if there was any job openings, and he said —he told me I was having fun out on the strike, and so just wait a while and he would call me a couple months, or whenever he had time.

Q Was anything else said?

A No.

Q Did you again go down to Fleetwood after this?
A Yes.
[fol. 45] Q About how long after this second time?
A A couple weeks.
Q Who did you see at this time?
A Bob Radcliffe.
Q Where did the meeting take place?
A Out in front of the building.
Q Was anyone else present?
A I don't think so.
Q What was said at this time?
A I just asked if I could have a job back, and he said no.
Q Did you ask him if there was any work, or if you could have your job?
A I asked him was there any work, and he said no, and that he would call me when there was.
Q That he would call you when there was?
A Yes.

* * * *

CROSS-EXAMINATION

Q (By Mr. Scallon) Mr. Painter, you started work on July 16th, is that right?
A Yes, I believe so.
Q And the date of the strike was August 6th?
A Yes.
Q So you had actually worked about three weeks prior
[fol. 46] to the strike, is that correct?
A Yes.
Q And you worked only in the finishing department during that time?
A Yes.
Q That was the finishing department in ceilings?
A No. This was inside the building.
Q Is this when you were putting on the windows and doors?
A Yes.
Q And that was your sole job during that time, putting on windows and doors?
A Yes.

* * * *

DAVID DAVIS

was called as a witness by and on behalf of the General Counel and, having been first duly sworn, was examined and testified as follows:

MR. BERRY: I will try not to go into anything we [fol. 47] stipulated to before as to Mr. Davis.

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.
A David Davis, 2450 Webster Avenue, Riverside, California.
Q Have you ever been employed by Fleetwood Trailer?
A Yes.
Q When did your employment with Fleetwood cease?
A The first of February.
Q 1964?
A 1965.
Q When did you originally start working for Fleetwood?
A It was in, I believe, the last of April.
Q Now, your last job with Fleetwood was what?
A Assistant saw man.
Q As assistant saw man what were your duties?
A Sawing and stacking wood.
Q Excuse me?
A Stacking wood, delivering it, and sawing different sizes.
Q Did you operate the saw yourself?
A Yes, I did.
Q Approximately how long did you assist working on the saw?
A Oh, approximately three months, I would say.
Q And before the strike you were a spray painter?
A Yes.
[fol. 48] Q Did you at any time help in the cabinet shop?
A Yes, I did.
Q What did you do in the cabinet shop?
A Oh, I helped build wardrobes and painted by brush and sanded by hand sander.

Q When you helped build wardrobes what tools did you use?

A Mostly a staple gun.

Q Can you describe how you went about assembling a wardrobe?

A We lay out the wood we need and staples and stuff, and glue.

Q Did you use a jig at this time?

A No.

* * * *

[fol. 49]

* * * *

Q After you made your original offer to return to work after the strike did you then go to Fleetwood to see if there was any employment?

A Yes.

Q Approximately when was this?

A Oh, I would say two or three weeks after the strike.

Q Was this the only time you were down there?

A No.

Q The first time you went down there who did you see?

A A man in the front office there. He isn't there any [fol. 50] more.

Q Do you recall his name?

A No, I don't. I think it is Roy, or something like that.

Q Do you know what he did at the plant? Do you know what job he held at the plant?

A No.

Q How long did this conversation with this gentleman take?

A Five or ten minutes.

Q What was said during the conversation?

A I asked him if they had any more job openings that I could do, and if I could get my old job back or something, or put me on anything that was open, and he said no, that I had to wait for an opening.

Q Try and keep your voice up a slight bit.

A O.K.

Q When was the next time you went down to Fleetwood to see if there was any work?

A About two weeks afterwards.
Q Who did you see at this time?
A Bob Radcliffe.
Q Where did you see Mr. Radcliffe?
A In front of the plant there.
Q Was anyone else present at the time?
A No.
Q About how long did the conversation last?
[fol. 51] A Maybe five minutes.
Q What was said at this time?
A I asked him the same thing, if he needed—had any openings yet, and he asked me had I renewed by application and brought it up to date, and I told him no, and he told me to go in the front office and bring it up to date.
So I did, and he said he would call me when he needed me after that.
Q Who told you that?
A The man in the front office.
Q The same person?
A Yes.
Q Did you go down to Fleetwood after this?
A Yes, I believe I did.
Q Do you recall about how long it would be after this second time?
A Maybe a week, I would say.
Q Who did you see this time?
A The same man in the front office.
Q Did you have approximately the same conversation?
A Yes.

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[fol. 52]

* * * *

MARY IMOGENE NEVINS

was called as a witness by and on behalf of the General Counsel, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.
A Mary Imogene Nevins, 1650 LeConte Drive, Riverside.

Q Where do you work, Mrs. Nevins?
A Fleetwood Trailers.
Q When did you originally start work for Fleetwood?
A November 4, 1963.
Q What is your present job at Fleetwood?
A I am in the cabinet shop assembling light balances and shelves and linen closet sides.

* * * *

[fol. 53]

* * * *

Q (By Mr. Berry) Now, at the present job what tools do you use?
A Staple guns, three, hammer, an awl nail set, and putty knife, and pair of dikes, and a tape line.
Q Describe how you go about doing your present job.
A The wood is cut to size and we lay it out and staple the frame together and place the "V" groove or quarter-inch plywood, whatever we are building, and after we staple it we glue it and then place the wood on the frame that we build and staple it together and finish it.
Q How long have you been doing this job?
A Approximately three weeks.
Q What job did you do before this?
A Pardon me? Since I came back?
Q Yes, since you came back to work after the strike, but when you were assembling light balances and shelves.
A I was building frames.
Q Any kind of particular type frames?
A Vanity frames, wardrobe facings, and back frames for these, on all of which we used jigs.
Q You used jigs for all those jobs?
A Yes.
Q What tools did you use while making those frames?
A Staple guns and occasionally a hammer.
[fol. 54] Q Keep your voice up slightly.
About how long did you do that job?
A Four weeks, approximately.
Q Can you describe how you went about doing that job?
A The gentleman that was working with me, whose name was Jim—I do not know his last name—he placed

the jig on the table for me, because it was too heavy, the wood was cut to size and I got the wood and placed it in the jig and stapled it together.

Q What job did you have before you went on strike?

A Squawking. Finish work. Detail work.

Q Can you describe what squawking or finishing is?

A Puttying, touching up paint, sweeping out the trailer, running the damp mop, and wiping down the walls for dust, and detail.

Q What tools did you use during that time?

A Hammer, nail set, and awl, a pair of dikes, a screwdriver, a tape line. Approximately the same tools I used at the other jobs.

Q Approximately how long were you a squawker?

A Between nine and ten months.

* * * *

[fol. 56]

* * * *

MR. BERRY: I mark as General Counsel's Exhibit 9 for identification an application for employment by Mary I. Nevins dated 8-19-64, 9-28-64, and 10-21-64.

(The document above referred to was marked General Counsel's Exhibit No. 9 for identification.)

MR. SCALLON: No objection.

OFFER IN EVIDENCE

MR. BERRY: I offer General Counsel's Exhibit 9 into evidence.

TRIAL EXAMINER: General Counsel's Exhibit 9 is received.

[fol. 57] (The document above referred to, heretofore marked General Counsel's Exhibit No. 9, was received in evidence.)

Q (By Mr. Berry) After you made your original offer to return to work after the strike in August, 1964, did you again go down to Fleetwood Trailer to see if there was any work?

A After August?

Q After August.

A Yes, I did.

Q Approximately how many times did you go down there?

A I phoned the middle of September and spoke with Bob Radcliffe. I was down the last of September, and the last of October I went to his office.

MR. BERRY: May the record show that on top of General Counsel's Exhibit No. 9, next to the dates September 29, 1964, and October 21, 1964, there are the notations "Came in," and next to the dates September 7, 1964, and September 26, 1964, the notation "Called."

Q (By Mr. Berry) Now, when you called on September 7, 1964, who did you speak to?

A bob Radcliffe.

Q Had you spoken to Mr. Radcliffe over the phone at previous times?

A Yes, I had when I was ill, calling in.

[fol. 58] Q Did you recognize his voice?

A Yes.

Q Could you please tell us what was said during this phone conversation?

A I just asked him if he had any openings for us to come back to work, and he said no, it depended on the amount of production and the amount of people that left the company.

Q Now, the next communication, according to the application, appears to be September 26, 1964, and you again called. Can you please tell us who you spoke to at that time?

A Bob Radcliffe.

Q What was said during this phone conservation?

A I told him I had applied for unemployment and that I could not continue on unemployment without searching for other work, and that I did not want to change jobs and I would like to come back to work at Fleetwood.

Q What did Mr. Radcliffe say?

A He said they had none.

Q On September 28, 1964, when you went into the plant who did you see at that time?

A Bob Radcliffe.

Q Where did this conversation take place?

A In his office. At that time he looked up my application, which I believe was in the front office.

Q Was anyone else present during this conversation?

[fol. 59] A Yes.

Q Do you remember who it was?

A I don't know. It was the gentleman in the front office.

Q Now, tell us what was said at this interview.

A I just asked him if he had any job openings, and he said none. And I asked him how things were going, and just mutual conversation.

Q Was the conference you had with him on October 21, 1964, similar to the others?

A Yes.

Q With the exception of these four dates, had you ever —was there any other time you went down to Fleetwood, or called to see if there were any openings?

A I went down the 21st of October.

MR. BERRY: You may cross-examine.

CROSS-EXAMINATION

Q (By Mr. Scallon) Mrs. Nevins, I show you General Counsel's Exhibit 9. This is the application which you filed on August 19, 1964, is this correct?

A I assume so.

Q The date is your handwriting, isn't it?

A I could not say definitely it is my handwriting. Excuse me. I filled out three applications. I filled out the original, I filled out one the day I went back after the strike, and also filled out one the day I returned to work.

[fol. 60] Q This one, in all likelihood, then, is the one you filled out after you returned after the strike?

A Yes.

Q Did you make the entry about halfway down the page where it says "Kind of Work Desired—Squawk"?

A No.

Q Isn't that your handwriting?

A No. I filled out my name and address and phone number, and my mother-in-law's phone number, and to my knowledge that is all I recall filling out.

MR. SCALLON: All right. Thank you.
No further questions.
MR. BERRY: No questions.
TRIAL EXAMINER: That is all, Mrs. Nevins.

(Witness excused.)

MR. SCALLON: I would like to recall Mr. Fuller for just one question.

Whereupon,

JAMES ERVING FULLER

was recalled as a witness and, having been previously duly sworn, was examined and testified further as follows:

TRIAL EXAMINER: Mr. Fuller, you were earlier sworn, and you are still under oath.
MR. SCALLON: May I have General Counsel's Exhibit 3?

[fol. 61]

CROSS-EXAMINATION (Continued)

Q (By Mr. Scallon) Mr. Fuller, I show you General Counsel's Exhibit No. 3, which is an application for employment dated the 19th of August, 1964. Is that the application which you executed?
A Yes, sir.
Q On the line about one-third down where it says "Kind of Work Desired," it has the letters "CA." Did you insert those letters?
A No, sir.
Q You did not?
A No.
Q Do you know, to your knowledge, what the letters "CA" commonly stand for?
A I assume it was cabinet assembly.

* * * *

[fol. 63]

* * * *

WILLIAM W. WEIDE

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Scallon) State your name and address, please.

A William W. Weide, 3196 Myers Street, Riverside, California.

Q What is your position with Fleetwood Trailer Co., Inc.?

A Administrative vice-president.

Q Mr. Weide, were you the principal company representative in the negotiations which led up to the strike with the Carpenters' Union at the Fleetwood Trailer Company plant at Riverside?

A I was.

Q I direct your attention to the meeting held at the Federal Mediation and Conciliation Service Offices on August 18, 1964. Were you present at that meeting?

A I was.

Q Can you state who else was present?

A In representation for the company there was Mr. [fol. 64] Jerome C. Byrne, legal counsel, and Mr. Hugh Scallon, legal counsel for the company.

Representative for the union was Mr. Vern Rippetoe, Mr. Fiedler, Mr. Brooks.

And then there was the conciliator officer also.

Q May I suggest his name was Goodwin?

A Goodwin, that is right.

Q Mr. Weide, will you tell us what transpired at that meeting?

A Well, the meeting was called by the Conciliation Service to see if they could find a common ground for solution of our negotiations that had broken down at that particular point.

Q How long had the strike been on at that time?

A I believe, if I recollect right, it was eight days. August 10th, and this happened to be August 18th. So it should have been eight days at that time, as I believe the record will show.

* * * *

[fol. 65] At that particular point he asked us if the strike were ended how would we suggest re-employing the people. At that time we explained to him that during the process of time from the time of the strike until the 18th, that because of reduction in personnel, and because of reduction in orders that were to be placed on materials, and other things, that we could not see our way clear to completely revert back to our old production capacity, which I believe was somewhere in excess of 20 units a week at that time.

[fol. 66] During the strike we had reverted back to approximately ten units a week.

However, we did tell him that, although we would not agree to preferential hiring list, and we emphasized this several times, that we would not agree to a preferential hiring list, that we would be willing to allow the employees to come in and register with the office and that we would give them due consideration, but that we would not limit our hiring in case we did increase production, we would not limit our hiring to this group in particular, but that we would not discriminate against this group as a group.

Q Did there come a time when the conciliator brought the union representatives back into the room?

A Yes, he did bring the union representatives back into the room, at which time the union representatives indicated to us in that room that they were ready to accept the terms of the negotiations of the contract, and they would immediately proceed to call off the strike.

Q Was there a discussion in the presence of the union representatives of the status of the strikers?

A Yes. This same discussion that took place about the nonpreferential hire list, more or less just the facts that I just stated, were again repeated in front of the union representatives.

[fol. 67] Q. Did the union representatives assent to these settlement terms?

A They raised no objection whatsoever.

Q The contract was ultimately signed, was it not?

A The contract was ultimately signed some time later.

Q Did the union have its people come in and sign an employment request list?

A Yes, they did.

Q Was the fact of the materially reduced production discussed at this meeting with the union representatives?

A Yes, it was.

Q Tell us about it.

A I need a clarification. Which meeting are you referring to now?

Q The one at the Federal Mediation and Conciliation Service.

A Yes. It was discussed in connection with the position we were in at that time as not being able to hire back anybody at that time. I don't recall the exact time, but it was a period of some weeks before we had actually hired anybody back immediately after that particular date because of the production capacities and what have you.

I am not sure I answered the question.

Q What were the terms of this request for hire? How was it to be administered, this request for hire list?

[fol. 68] A Employees would come in and register their names and request to be hired, and to the extent that their names remained on this list—this registered list—they would be contacted some time in a period of 30 days.

However, it was stipulated at this meeting that if they did not in fact come in in a period of 30 days they would disqualify themselves to the extent we wouldn't consider them any longer interested.

We also pointed out to the union representatives at that time to please be careful and inform the employees to—at the end of the 30 days—to keep track of this 30 days' period and come back and re-register again to keep them on this list to show they were still interested in going back to work.

Q What happened at the end of the expiration of the first 30-day period?

A Some time between the expiration of the first 30-day period and some time after that the union representa-

tives and myself met in my offices to execute the contract, at which time I informed them that these employees had not in fact come back in and reaffirmed their desire to go back to work, and I urged them again, although it was past the 30 days, I would wait until the first of the following month before I would drop their names from this list showing they were interested in going back to work.

[fol. 69] In fact, we had to notify the union that some of the employees did not come back in and register.

Q Did the union notify the employees?

A The union notified the employees. We gave them the names of the employees who had not come back and re-registered, and they notified these employees, and some of them did not come back immediately.

We called the union and they called them again, and they had to give them second notice, and some of them subsequently did come back and re-register, and some of them have never come back and re-registered.

I think that is the correct sequence.

MR. SCALLON: I have no further questions.

CROSS-EXAMINATION

Q (By Mr. Berry) Let me see, Mr. Weide, if I have the understanding of your version of this strike settlement agreement correct.

You state it was agreed between the union and Fleetwood at the time that a nonpreferential hiring list would be set up, is that correct?

A Yes.

Q And that you would have the right to hire off the list as well as hire on the list as long as you did not discriminate against the strikers as a whole?

A Yes. I guess I answered that.

[fol. 70] Q Do you understand my question?

A Yes, but I am not sure as you put the question that that is the exact words as I answered it. We didn't agree, as you stated in your question, if I might clarify that, we did not agree that we would hire off the list as well as hiring others.

I think we agreed that it would not be mandatory to hire off the list. We could hire others. We were able to hire others too.

* * * *

[fol. 71]

* * * * *

Q You stated because of your decrease in production, and this was one of the factors which you took into consideration to set up a nonpreferential hiring list, was your decrease in production, is that correct?

A Yes.

Q Is it not true within a couple months after the strike ended you did increase production again from ten to approximately fifteen trailers a week?

A I am not sure. I can't testify the exact date they were increased.

Q Would it have been approximately two months?

A I would say it sounds reasonable. I can't testify to the exact date.

Q Did you not at some subsequent time after increasing it back to fifteen trailers a week increase it back to your original production of approximately twenty [fol. 72] trailers per week?

A We have since increased it to twenty trailers a week.

Q Do you have any idea when approximately you did increase it back to twenty trailers a week?

A The best my recollection allows, it was some time in January.

Q Now, while you were discussing terms of the strike settlement in the office of Commissioner Goodwin was it your idea at that time to keep production at about ten trailers a week, or was it your notion at that time to go back to the original twenty trailers per week, although you could not tell exactly at that time when it would be?

A We did not know at that time how fast we could get back to twenty trailers a week.

Q But it was your intention to go back to twenty a week at some future time?

A Yes.

Q Would it be a correct statement that the reason you did not know exactly when you would go back to

fifteen or twenty trailers a week was because you were not sure whether you could train employees quickly enough to get out the quality trailer you wanted to put out?

A That is not completely right. There were two factors involved. One, as you mentioned, speed as it relates to quality of product; and the second one was the [fol. 73] fact of our source of supply and its time factor to our plant, since we had taken some action to reduce standing orders with various vendors on raw materials, not knowing how long the strike might persist.

Q How long would it normally take you to get something from a supplier if you ordered it today?

A On some supplies you can get it the same day, and some supplies you can get it in several days, and other supplies can take up to 30 days.

Some items we buy on a 30-day supply basis, and others on a week-to-week or bimonthly basis.

Q Now, when these employees came in the second time to register, this would be some time after the original 30-day period had expired and they would put their names back on the list to show their availability, and this new list then was kept in the same way as the old list, and these were the strikers who were to be called back if strikers were to be called back at all?

A That is my understanding, that they were.

I would like also, Mr. Berry, if it is in order, to again requalify that to state that it was by our urging that they were asked to re-register, because some of them, by the agreement, had disqualified themselves by not coming back in.

* * * *

[fol. 74]

* * * *

Q (By Mr. Berry) By their not coming in in the exact 30-day period did you disqualify those strikers who did come in after this 30-days period?

A We considered them disqualified until they did come back in and re-register, and then we requalified them.

MR. BERRY: No further questions.

REDIRECT EXAMINATION

Q (By Mr. Scallon) One point of clarification. At the expiration of the first period between the time that first period expired and the time they came in did you consider them as disqualified for employment during that period?

A We considered the fact they disqualified themselves [fol. 75] by not—I don't like to use the word "disqualified." We considered the fact they had disqualified themselves because they no longer showed an interest, because that was part of the consideration of the whole thing, that by coming in to re-register they showed they were interested in coming back to work.

* * * *

TRIAL EXAMINER: And your production then of 20 trailers a week, had that continued to be your production up until the strike was called?

A We were at a 20-trailers-a-week rate. In fact, I don't think—we use these terms loosely. May I explain a moment?

We can be on a schedule of 20 a week, but at the same time we might not be accomplishing the schedule.

I am not sure—I haven't studied the records that recently, but we are on a rate of 20 a week, but whether we were accomplishing that rate of 20 a week when the strike occurred, I can't tell you.

TRIAL EXAMINER: I think this is the sense of your [fol. 76] testimony: That it was the happening of the strike which caused you to change your orders for materials and supplies, and to abandon the idea of making 20 trailers a week.

THE WITNESS: That's right.

TRIAL EXAMINER: Subsequent to the beginning of the strike and at the time that you met at the Mediation Office and reached agreement with the union on the conditions under which the strike would be ended, had you hired any new people in the plant?

THE WITNESS: Yes, sir, we had, during the strike period.

* * * *

[fol. 77]

* * * *

CECIL B. CHAPMAN

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Scallon) Will you state your name and address, please.

A Cecil B. Chapman, 4121 Glenwood Drive, Riverside, California.

Q What is your position at the Fleetwood Trailer Company?

A Plant manager.

Q Will you explain what the position of plant manager means in your organization?

A Well, I am responsible for not only the production department activities, but sales, purchasing, accounting, and in a sense the overall operation.

Q Mr. Chapman, are you familiar with the various jobs and classifications in the production department of your operation?

A Yes, I am. I am an ex-production manager.

Q What is the function of production manager?

A Directly in charge of the production department.

Q During the period August 1964 through December 1964 were you involved in the hiring process for [fol. 78] production employees of Fleetwood?

A Primarily in an advisory capacity.

Q With whom did you consult?

A My production manager.

Q Who were the production managers?

A The production manager at that time was Bob Radcliffe.

Q And subsequently there was a new production manager?

A Yes.

Q What is his name?

A William Gaines.

* * * *

[fol. 79]

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Q Did you consult with the production manager concerning the filling of the position for which the replacement employees were hired?

A This was discussed, yes.

Q Are you familiar with the employment records of the six complaining employees in this case?

A Yes. I pretty well made it my business to become familiar with all the applications at that time.

Q Did you discuss the complaining employees' records with the production manager?

A Yes, sir.

Q When these six positions were opened did you consider the complaining employees for possibly calling in to fill these positions?

A Yes, I believe they were considered.

Q On what grounds was the decision made not to call these employees for these particular positions?

A Well, in each specific instance there were different grounds. It depended upon our rate of production, what position was open, and who was available to fill it.

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[fol. 80]

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Q Now, I call your attention to the position to be filled on October 12, 1964 in the flooring department. Will you describe the activities of an employee employed in this classification.

A Well, the flooring department may have four to seven men, depending on the rate of production we are in. They build a complete floor.

This floor is ten feet wide, and anywhere from 40 to 48 feet long. It is constructed out of two by four framing joined together in 40 or 50 feet length. This framing has to be handled from one area and manhandled over to the jig after it is assembled together.

The main flooring itself consists of 5/8 plywood four feet wide by ten feet long, and quite heavy.

This particular job uses heavy tools. They do use staple guns, routers and hammers, but in this particular

department the staple gun, routers and hammers, generally speaking, all the tools they use are of the heavier capacity or heavier duty because they are dealing with large and heavy materials, and there is quite a bit of manhandling and heavy weight, climbing up and down from floor level to the level of the trailer, which is approximately 30 inches from the floor, lifting appliances on the trailer from ground level to floor level and so it [fol. 81] takes a healthy, fairly strong employee in that department.

They use, for example, 20-ounce hammers instead of 13-ounce hammers.

Q Could a woman perform this work?

A No.

Q Could a man of age 55 perform this type work?

A I wouldn't consider it advisable to try it, because he is climbing over the jig and stepping over and lifting and climbing up and down, and I wouldn't advise it.

Q You were present this morning and witnessed the demonstration concerning the vision of Mr. Kluth, is that right?

A Yes, sir.

Q And you have observed Mr. Kluth working in the shop itself?

A Yes, I have.

Q In your opinion could a man with his visual limitations perform the work required on this job?

A No, because in many of the job functions it requires coordination between two or more people at the same time.

Q He would have to be able to see these things?

A Yes. And not only see what you are doing yourself, but see what the other man is doing.

Q I call your attention to the job opening October 13, 1964, for a finisher. Will you describe what that job involved.

[fol. 82] A Oh, it is in the finishing department, and it involves installing windows, sliding glass doors, carpet, electrical fixtures, hardware, setting of the overstuffed furniture in the unit, dinette sets, and that is about the extent of that department.

Q Could a woman perform this work?

A Possibly some functions of it, but not all of it.

Q Could an older man perform this type work?

A He could probably 80 per cent of it. Lifting sliding glass doors and furniture and rolls of carpet, I would not prefer to have an older man in that particular department, primarily because everybody within that department, every man in the department, must be able to perform all the operations handled in that department.

Q Could Mr. Kluth with his visual limitations perform that job?

A I seriously doubt it. They are working in a darkened unit in that it has no electricity or lights in the unit while they are working, that is, until the final stages of the operation when the electrical fixtures are installed. So the trailer is darkened and there is heavy lifting necessary in some functions of that particular department.

Q Now, I would like to ask you about the job opening for October 16, 1964, which was for a cabinet setter. Would you describe what that job involves.

[fol. 83] A Well, it involves the cabinet setters themselves going over to the cabinet shop and picking up and carrying by hand all the furniture necessary to go inside one of our units. This includes interior walls which may be seven feet tall and seven to eight feet long, complete the wardrobe, complete the galley consisting of a rather large piece of furniture with the kitchen sink already installed.

There is quite a bit of heavy lifting, and quite a bit of work at height. All this furniture has to be carried from ground level to the level of the trailer and installed in the trailer. This sometimes involves climbing up and around and standing on other pieces of furniture to reach heights, getting back under tight spots to secure or screw parts down to the main body of the trailer. That pretty well is the extent of it.

Q Would you say that Nevins, Malzahn, or Kluth were capable of performing these functions?

A No.

Q Did you in the process of passing upon who would be employed for these various positions have occasion to inspect the work records of the employees?

A Yes, sir, I did.

Q Were there any of them that you felt were disqualified from the positions on the basis of their prior work record?

A Offhand I would say no, except possibly one exception.

[fol. 84] Q What exception was that?

A James Fuller.

Q I call your attention to—

MR. SCALLON: Off the record a moment.

TRIAL EXAMINER: Off the record.

(Discussion off the record.)

TRIAL EXAMINER: On the record.

Q (By Mr. Scallon) I show you General Counsel's Exhibit 2, which is the employment record of James Ervin Fuller. Will you tell us from that form what aspects of it you considered unsatisfactory from an employment record point of view?

A His attendance record, actually, prior to the strike. There is one notation with his application that is not here which has a bearing on it. He and our assistant production manager got in a small hassle. I don't recall the exact date, but I have it there on the report.

It seems there had been a fire outside our building across the street in a garage across the street, and, naturally, this caused commotion throughout the plant and some of our employees started drifting away from their work areas and started toward the front of the building to inspect the fire.

During this particular time myself and our sales manager went across the street and in the meantime our [fol. 85] accountant called the fire department, and the salesman and myself went across the street to see what was going on, or see if there was any possibility of spreading or damaging anything in the area, or if there was anything we could do.

In the meantime some of the employees in the plant began to leave their work stations and drift toward the front of the plant.

Mr. Radcliffe, the production manager, went forward and closed the front big doors, and those within speaking

distance, he asked them to go back to their work tables and continue working.

James Fuller was one of these men who left his table and started toward the front, and he was approached by our assistant production manager, Bill Gaines, and Bill asked him to go back to his work station, and I forget the exact wording—I don't recall the exact wording that took place—but there were some harsh words exchanged between he and our production manager to the effect that James Fuller asked if there were any of the employees' cars on fire out there, and to the effect that the assistant production manager replied, "No," if there were we would have help and we would get it corrected.

James Fuller replied in a somewhat heated tone to the effect, "Well, there better not be any cars out there."

And the assistant production manager asked him to go [fol. 86] back to his work table.

A few minutes later James Fuller dropped his apron on the table and started walking towards the front, and I don't know whether he went to the assistant production manager or the assistant production manager approached him and asked him where he was going.

And James Fuller said he had a headache. I think he was directed by the assistant production manager to the production manager, Bob Radcliffe, and James Fuller said he had a headache and he wanted to go home. This was within 15 minutes after the previous occurrence.

Bob Radcliffe mentioned to James Fuller that his attendance record had been rather poor the last week or so; that if he felt he should go home because of an illness or something, he should possibly bring a doctor's slip.

He asked James Fuller if he was going to the doctor, and James Fuller said, "No."

Bob Radcliffe, as I recall, said in effect, "You have had some absences recently. If it is necessary for you to take off, I would recommend that you go to the doctor and bring in a doctor's slip." I believe it was Monday morning —I believe this was an occurrence on Friday.

As it turned out James Fuller did come back to work Monday morning and brought a slip from the doctor stating he had been examined the following Saturday.

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[fol. 90]

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Q (By Mr. Scallon) To review a moment, Mr. Chapman, was it your testimony that Mr. Fuller was the only one of the complaining employees whom you considered disqualified because of his work record?

A Well, yes, because of—well, not the only one because of his work record, but primarily because of this specific incident there where it bordered on insubordination.

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[fol. 91]

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JEROME C. BYRNE

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Scallon) State your name and address.

A Jerome C. Byrne, B-y-r-n-e, 9955 Young Drive, Beverly Hills, California.

Q Mr. Byrne, are you a member of the law firm of Gibson, Dunn & Crutcher?

A Yes.

Q And that is the same law firm of which I am associated?

A Yes, sir.

Q Now, in the period of approximately March through December, 1964, were you counsel for the Fleetwood Trailer Company in negotiations concerning their Riverside plant?

[fol. 92] A. Yes, sir. I have been counsel for them in labor relations matters since they opened the plant in Riverside, and followed through until very recently when I took a three-month leave of absence from my practice for a matter relating to the University of California.

Q Now, I direct your attention to a meeting held at the Federal Mediation and Conciliation Services Offices

on August 18, 1964. Were you present at that meeting?

A Yes. I represented the company at that meeting.

* * * *

Q Would you recount to us, as you remember it, the discussions leading up to the agreement to terminate the strike at the Riverside plant?

A Well, the strike had progressed, as I recall now, for a two weeks period. The company had engaged in a [fol. 93] program of hiring replacements. As I recall, there were about half of the people either who did not go out on strike or within a few days crossed the picket line to return to work, and the company was in the process of hiring additional replacements.

The conciliator requested the meeting, which, as I said, I attended representing the company.

The conciliator, I think, separated the parties and talked with us first. By "us" I mean the company representatives.

The main issue that he directed his attention to was the question of union security, the position of the company throughout the negotiations having been that there would be no union security or checkoff of dues.

In the prior conversations at this meeting we repeated that position and said that there was no change, and I made it quite clear that there was no possibility of change in position; that I thought it would be a waste of time for him to pursue it further; that the company takes a strong view that it should not get involved in these matters, but that it should be left to the employees to choose themselves.

He suggested that, as an alternative, some method be worked out whereby the company would indicate by letter to the employees that union membership was available, and not to counteract any patent discouraging of joining. [fol. 94] We discussed this aspect. I think he mentioned he had done this in some other situation he had had, the conciliator, that is, and we rejected it.

I don't recall if we discussed any other possible changes in the contract at all except for this union security—by contract I mean in the proposal that had been submitted to the union prior to the strike and which had been rejected.

There were at that time two or three issues, but union security was the overpowering issue.

Mr. Goodwin left, as I recall, and went with the union people. I don't remember now whether he came back alone, and then the union people came back, or whether he came back alone and talked to us briefly and then they joined in, but at any rate my best recollection is that he came back and said the union was accepting the deal.

Then we started talking about a preferential hiring list. This may have been when the union people were present, and I think it was. I think it was a matter of accepting the deal without union securtiy that he informed us alone, and then he brought the union people in and then I think the question of preferential hiring list was raised.

At that time we stated it was our position there would be no preferential hiring list; that we would not discriminate in any way, but we wanted to be free to hire good [fol. 95] people who made themselves available.

We also pointed out at that time that we really were not in the process at the moment of hiring any more; that we had reached a point where we could not right at that moment handle any returning strikers, or at that moment any other new employees.

The union was rather unhappy about this position of not having a preferential hiring list. I said that what we would do would be to maintain a list of employees—striking employees—for a period of 30 days, and that when any vacancies occurred we would consult that list, but would also feel free to hire any other employees who we thought were better qualified than those on the list.

We put the condition that the employees had to come in and sign this list because we wanted to make sure that they had an individual interest in returning to work. And we said at the end of 30 days if they still were not reinstated or rehired, that they would have to come in and sign the list again so as to renew their interest in being considered for any opening that came up.

Q Was the condition concerning the status of the strikers, was this made clear to the union representatives?

A Well, we made the point that at this juncture we had a full complement of personnel, and that these strikers—it was a situation where the plant was in a [fol. 96] completely relaxed situation. This business was producing a certain number of trailers—I don't remember the numbers, but their supply of inventory trailers or mobile homes was such that they were lowering their production schedule anyway.

Am I answering the question?

Q Were the terms that this was not to be a preferential hiring list, was this fact made absolutely clear to the union?

A Yes, absolutely. They asked for a preferential hiring list, and we rejected it, and I came forward with this 30-day list and made it clear to the gentlemen there would be no preferences, but the list would be consulted whenever there was a vacancy, but we would be free to hire from the outside.

The conciliator understood it that way, and the resolution of the matter was we would go ahead and prepare the contract in accordance with the terms of the contract that was submitted to the union prior to the strike, which we proceeded to do, and over a course of a few weeks it was prepared and reviewed by the union and eventually some time later—I don't remember when—it was signed.

* * * *

CROSS-EXAMINATION

Q (By Mr. Berry) Mr. Byrne, let me see if I have your version of the strike settlement agreement correct. [fol. 97] You said it was agreed it was a nonpreferential hiring list that was to be set up.

A Yes.

Q And that you would maintain a list of employees for 30 days, and if and when vacancies occurred you would consult that list, but you would also feel free to hire off that list or away from it?

A Yes.

Q At the end of 30 days, if they were not rehired, they would have to come in and re-register again.

A Re-register to continue to show their interest. As a matter of fact, at the end of the 30 days—I didn't want to be unfair to these people, so in conversation with Mr. Weide I asked him to remined the union of the 30-day period so those who were interested would remember to come in and sign up, and I can't say whether he did or not.

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[fol. 98]

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CECIL B. CHAPMAN

was recalled as a witness and, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION (Continued)

Q (By Mr. Scallon) Mr. Chapman, did you prepare a schedule of the production of trailer units at my request?

A Yes, I did.

Q I show you a typewritten list. Is that the list you prepared?

A Yes.

MR. SCALLON: I would like to mark this list as Respondent's Exhibit 2 for identification.

[fol. 99]

• • • •

Q (By Mr. Scallon) Will you explain the figures—what this schedule consists of.

A The column on the left is week ending. For example, 7-5-64 at the top means the week ending 7-5-64, which is a Sunday.

The column on the right is the number of units produced each week. This schedule starts at 7-5-64, and beginning that week we had produced 15 units.

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[fol. 100]

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Q (By Mr. Scallon) All right. The week immediately preceding the strike, which would be—

A 8-2-64, we produced 18 units.

Q That was your actual production of units, is that right?

A This is the—

Q Let me ask you, what does that figure 18 represent?

A This represents the number of units that under our system has been "bought" by our sales manager, who is responsible for quality and accepting the unit from production as in a condition and up to our standards of quality, available for shipment to a dealer.

Q What was your programmed production for that week?

A Between 7-5-64 and—

Q No, for the week immediately preceding the strike.

A I believe it was 18.

Q That was your programmed production?

A Yes, preceding the strike.

Q Now, in the week of the strike what was your [fol. 101] actual production of trailers?

A Twelve.

* * * * *

Q What was your programmed production for that week?

A Twenty.

Q What was the reason for the reduction in units?

A Approximately 50 per cent of our employees walked out.

Q Subsequently did you establish a lower production rate for the plant?

A Yes, we did.

Q What was the production rate you established immediately subsequent to the strike?

A Ten a week. Two a day.

Q These were the programmed units?

A Yes.

Q Did you subsequently increase your programmed production of units?

[fol. 102] A Yes, we did. For the purposes of purchasing and getting reorganized we agreed that we should stay programmed ten units a week until we found out how things were going, but it was our intention to get back to full production as soon as possible.

Q When did you actually increase production again?

A The week following the strike we produced seven units.

Q I am speaking at the moment of your programmed production. Apparently, is this right, your actual production will just vary with quality control, whether it has been accepted or not, is that right?

A Yes, this is correct. We have two aspects of this, the number of units that come off the line may be different from the number of units bought by the sales department. It depends on their condition when they come off the line.

Q I am referring at the moment to the number of units coming off the line.

Immediately after the strike you scheduled for ten units a week, is that right?

A Yes.

Q When did you first increase that programmed schedule?

A Approximately two weeks later.

Q Will you note the date on that list.

A Yes.

Q What date did you increase your programmed units?

[fol. 103] A 8-23.

Q And what was the increase?

A Well, actually, it was to 12. It shows 14 here, but two of them were units that had been bought from prior production, possibly a week or two weeks before.

Q I think we are managing to confuse everything here. Let me start over from the word go.

Right after the strike how many units did you program?

A Ten. Two a day.

Q When did you first program 12 units?

A I believe our intention was—

Q No. When did you actually program? Did you say you would program for this week 12 units and hire in employees for 12 units?

A Approximately—you are talking about two different things. If we are going to program an increase in units we must hire employees a week or two prior.

Q When did you program more units? Let's stick to program.

A I think possibly it was three weeks later we intended to go from ten to twelve.

Q And subsequently did you increase that again?

A Yes.

Q To how many units?

A About 14.

[fol. 104] Q About when was that?

A Approximately the week ending October 11, 1964.

Q Subsequently did you increase it again?

A Yes. To 16, approximately two weeks later, 10-25-64.

Q And subsequently was it increased again?

A Eighteen, on 11-16-64.

Q And subsequently was it increased again?

A Nineteen units on 12-6-64.

Q And what is your production now?

A Well, we increased again to 20 units a week on 12-13-64.

• • • •

OFFER IN EVIDENCE

MR. SCALLON: Yes. I offer that exhibit into evidence as respondent's Exhibit 2.

TRIAL EXAMINER: Any objection?

MR. BERRY: No objection.

TRIAL EXAMINER: It is received.

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[fol. 105] CROSS-EXAMINATION

Q (By Mr. Berry) Mr. Chapman, going to Respondent's Exhibit 2, I want to make something clear in my mind, and something for the record.

This list does not show the actual production put out during the week, but shows the amount of trailers bought by your sales manager?

A Yes.

Q In other words, if 20 trailers were produced but only 19 were bought, you would have 19 down here instead of 20?

A Yes.

Q When you program for 16 trailers a week do you normally bill for 16 trailers a week?

A Yes.

Q And would you normally, when you program for ten, bill for ten?

A Yes.

A May I ask whether the numbers written in pen along the weeks correspond to the weeks when the increase in programming was?

A That is approximately, yes. It is very close.

Q Mr. Chapman, when you are looking to hire a finisher who installs the windows and handles and heavy materials and uses heavy tools, what are you looking for in his experience, or are you just looking for a strong man?

[fol. 106] A A willing worker.

Q Are there any previous work experiences that you are looking for?

A None in particular.

Q When you are looking for an employee you consider to be a willing worker, what do you look for?

A We would like him to be healthy, and would like him to be 19 to 25 years old. We would prefer that he had a good past record—employment record. Depending, if we have an opening in a particular department, there might be certain physical requirements we might be looking for.

For example, on the flooring department—

Q No. At this moment I am talking about the finishing department.

A The finishing department?

Q Yes.

A No particular physical requirement, except that he be healthy.

Q Would you consider David Davis healthy?

A Yes.

Q Between 19 and 25?

A Yes.

Q Have a good employment record?

A I would have to consult what information we have on our records. I don't know.

[fol. 107] Q And Lonnie Painter, would you consider him healthy?

A Not judging by his absenteeism.

Q And James Fuller, except for his absenteeism when he was sick?

A Yes.

Q And he is between 19 and 25, approximately?

A Right.

Q Now, when you are looking for an employee who has to lift heavy wood and big pieces of plywood and staples and other tools, I gather you are looking for a strong employee?

A Yes.

Q And this is your basic requirement?

A Yes, sir.

Q Besides being healthy and a willing worker and a good work record?

A A willing worker, yes, sir.

Q Now, was Lonnie Painter a finisher before the strike started?

A I believe he was, yes, sir.

Q This is General Counsel's Exhibit 7, Lonnie Painter. The first notation that I see on General Counsel's Exhibit 7 is that he was off 8-6-64 due to a strike.

A That is correct. He had been in our employ approximately three weeks.

Q So as of this time you did not have anything [fol. 108] against his work record, is that correct? Judging from General Counsel's Exhibit 7?

A Correct.

Q Now, to produce more trailers a day is it necessary to hire more employees?

A Normally, yes.

Q Well, could you produce 15 trailers a day with the same complement that you can produce 10 trailers a day?

A No. We need less men for 10 than we need for 15.

Q How many employees do you have now at Fleetwood?

A Now?

Q Yes, now.

A Approximately 108.

Q Do you recall how many employees you had on August 5th, which would be the day right before the strike commenced?

A 110.

Q And you are producing approximately the same production that you had just before the strike, you program 20 trailers a week?

A yes.

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[fol. 109]

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Q I turn your attention to the second paragraph on Page 3 of General Counsel's Exhibit 10 for identification and ask you to read the third sentence.

A "There were 71 employees as of the time the strike ended."

Q Thank you.

At this time do you think that would be a correct statement of the number of employees at the time the strike ended?

A Yes, sir.

Q How many extra employees do you need—how many extra employees would it take to produce 11 trailers than it would 10 trailers a week?

A I could give a better example between 10 and 15.

Q All right. How many would it take to produce be-

[fol. 110] tween 10 and 15?

A Approximately 50 people for 10 a week, and approximately 74 people for 15 a week. As you increase production the number of people that you add does not necessarily increase proportionately.

Q And for the production of 20 trailers you need from approximately 108 to 110 employes?

A This is what we have found so far.

Q Now, I show you Respondent's Exhibit 2, and it states on the week beginning October 25, 1964, you were programming for 16 trailers a week, is that correct?

A That's right.

Q You also state that when you hired employees and when you raised your program you hire employees approximately a week or two before time?

A Yes. It can vary, according to the amount of increase we are going to attempt.

Q Would it be a correct statement to say then when you hired the six employees listed in the General Counsel's stipulation that you were hiring them for the increase in production from 14 to 16 trailers a week?

A This I could not answer. They may have been hired as replacements and quits or terminations.

Q But it would take more employees to produce 16 trailers a week than it would to produce 14 trailers a week?

[fol. 111] A This is correct.

Q And with the exception of Eddie Latinsky, who was hired on October 8, the rest of the employees in that stipulation were hired after October 11 when you were producing 14, but before October 25 when you were producing 16 trailers, is that correct?

TRIAL EXAMINER: You are not asking him to vary the stipulation, are you?

MR. BERRY: No, not at all.

TRIAL EXAMINER: Well, the stipulation is in.

Q (By Mr. Berry) Now, you stated before, Mr. Chapman, that Mrs. Nevins, Mr. Malzahn, and Mr. Kluth you did not consider capable of performing the job of cabinet setter, is that correct?

A Yes.

Q You did not state that you did not consider either Mr. Painter, Davis, or Fuller as not physically capable of performing the job?

A I do not state that. That is correct.

Q And you did intend at all times to get production as quick as possible up to 20 trailers a week?

A Correct.

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[fol. 112]

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REDIRECT EXAMINATION

Q (By Mr. Scallon) Referring to the sentence you were asked to read previously, will you read that full sentence.

A "There were 17 employees —"

Q Excuse me. Seventeen?
A "71 employees." Excuse me.
"— as of the time the strike ended, and there are presently 74 employees."
Q What is the date of this statement?
A 19th of October.
Q So that on the 19th of October the net working force had increased by only three employees, is that correct, from the date of the end of the strike?
A That is correct.

• • • •

Q (By Mr. Scallon) For the purpose of those hypo-
[fol. 113] thetical figures which you postulated to Mr. Berry, concerning the number of people necessary to produce certain levels of trailers, would the increase in the number of employees necessary, would that vary with the skill and experience of the employees?
A It certainly would.
Q For example, if on a given date you had largely unskilled employees, subsequently it is entirely possible you would increase production without a necessity of increasing your number of employees as they increase their experience?
A This is the way it works.

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[fol. 114]

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ANDREW FIEDLER

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.
A Andrew Fiedler, 831 Twenty-ninth Street, San Bernardino, California.
Q By whom are you employed, Mr. Fiedler?
A I am employed by the Carpenters Local 1959.
Q In what capacity are you employed?

A I am the business representative and also the financial secretary.

Q Now, I direct your attention to the meeting between the union and Fleetwood which took place on August 18, 1964, in which you were present.

• • • •

Q (By Mr. Berry) What was said at the meeting concerning the strike settlement agreement, to the best of your knowledge?

A To the best of my knowledge, as far as that meet-
[fol. 115] ing was concerned, Commissioner Goodwin and our executive secretary, Vernon Rippetoe, had been doing the negotiating. I had been invited to some of those meetings, but the executive secretary had done most of the negotiating, and I had nothing to do with the negotiating.

I think I attended three meetings. I understood at that meeting that the union would accept the agreement, and there was a list supposed to be made up of the employees to go in and register on some kind of a list, after we had taken them off the picket line on August 18, 1964.

Q Do you recall anything said about whether it would be a nonpreferential or preferential list for hiring that would be set up?

A I just can't say, sir, exactly preferential or nonpreferential, or any other list. It was a list.

We were over there on account of Mr. Rippetoe going to San Francisco, and Mr. Brooks and I went over there. Ordinarily I wouldn't have been at that meeting.

We were told to go back and take the picket line off and notify the people that were on strike they would return there and register on a list. What kind of list, I have no recollection.

Q Was it your understanding that Fleetwood could hire off this list before they hired all the employees on this list?

A To the best of my knowledge, I wouldn't know.

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[fol. 116]

• • • •

Q (By Mr. Berry) Did you hear anything at this meeting, Mr. Fiedler, concerning whether or not Fleet-

wood could hire off the list before—could hire employees away from the list before they hired all the employees on the list?

A Could you say that again?

Q I am sorry. I will restate it.

Was anything said at the meeting as to whether Fleetwood could hire employees who were not on this list as well as employees who were on this list?

A Gee, I couldn't answer that. I don't recall.

• • • •

ALBERT BROOKS

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

[fol. 117] DIRECT EXAMINATION

Q (By Mr. Berry) State your name and address.

A Albert Brooks.

Q By whom are you employed, Mr. Brooks?

A You want me to give my address first?

Q I am sorry.

A 3446 Russell Street, Riverside.

Q Is that San Bernardino?

A Riverside.

Q By whom are you employed, Mr. Brooks?

A District Council of Carpenters.

Q In what capacity?

A I am business representative and treasurer of District Council of Carpenters.

Q I direct your attention to the meeting of August 18, 1964. Were you present at this meeting?

A I was.

Q Will you please relate to us to the best of your recollection what was said at this meeting concerning the strike settement agreement.

A Well, we were all assembled, both the employer and the union, Mr. Goodwin, for discussion, and Mr. Goodwin called us into another room, and after some discussion he advised us to make settlement and I believe Mr. Goodwin

—I believe two trips back and forth, and then we were [fol. 118] all called in and reassembled.

Q Speak a little louder, please.

A O.K.

And it was stated that the union would accept the agreement, and that Mr. Fiedler and I, on our way home, would go by the plant and call off the picket line, which we did. And it was stated, as I understood it, that the employees would come in and sign a list, which they were told at a meeting that evening, and they would be put back to work as needed.

Q Was anything said concerning whether these strikers would be called back before Fleetwood hired employees who were not on that list?

A Well, I don't recall it.

Q Was anything said as to whether the list would be preferential or nonpreferential?

A That I can't say.

* * * *

[fol. 121]

* * * *

CECIL B. CHAPMAN

was recalled as a witness by and on behalf of the Respondent and, having been previously duly sworn, was examined and testified further as follows:

REDIRECT EXAMINATION (Continued)

Q (By Mr. Scallon) Mr. Chapman, at my request [fol. 122] did you determine the number of persons hired subsequent to the date of the strike, up to the date of the termination of the strike?

A Repeat the question.

Q Did you determine the number of persons hired during the strike?

A I can give approximate figures. We had approximately 107 or 108 on the payroll prior to the strike. Approximately 53 or 54 did not return to work as of the beginning of the strike.

At the end of the strike we had approximately 71 people on the payroll. We hired the difference there of probably 25 or 30 people.

• • • •

[fol. 123]

RECROSS-EXAMINATION

Q (By Mr. Berry) I have a letter which I will identify for the record for identification as General Counsel's Exhibit 11. It is a two-page document, the first page on the letterhead of Gibson, Dunn & Crutcher; the second page on Fleetwood Trailer Company.

The first page is signed by Hugh D. Scallon, and the second page by C. D. Chapman.

MR. SCALLON: That is the document we are willing to stipulate that that attached schedule to that letter does represent the employees hired during the strike.

MR. BERRY: That stipulation is received by General Counsel.

(The document above referred to was marked General Counsel's Exhibit No. 11 for identification.)

Q (By Mr. Berry) General Counsel's Exhibit 11 for identification lists 21 employees who were hired during the strike, and you stated, I believe, there were 53 employees. Is that your figure?

A As I recall, thereabouts.

Q So that leaves 32 positions that were not filled, is that correct?

TRIAL EXAMINER: That is a matter of arithmetic.

Q (By Mr. Berry) Now, can you state with any [fol. 124] definiteness which employees you hired during the strike replaced any individual that was on strike?

A No, sir, I couldn't. All of our departments were at half strength. We had evidently—word must have got out some way probably through our working employees that we would be hiring, and we had many applicants come in and walk through the picket line.

As to who replaced who, it is difficult to say because our production schedule was immediately cut back to ten. Our intention was to get up to 15 as rapidly as possible. We wanted new men to train to get back to 15 as soon as

possible, but as to what man filled what man's position, I can't honestly say.

Q But these men who were hired were hired to fill a complement for programming ten trailers a week?

A No. We had a complement for—those men were hired in preparation for increasing the production and getting it back up.

• • • •

[fol. 125]

• • • •

OFFER IN EVIDENCE

TRIAL EXAMINER: General Counsel's Exhibit No. 11, upon the offer of the respondent, is received in evidence.

(The document above referred to, heretofore marked General Counsel's Exhibit No. 11, was received in evidence.)

• • • •

[fol. 126]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 2

APPLICATION FOR EMPLOYMENT

Date NOV 9, 1963

Name in Full (please print) JAMES ERVING FULLER S. S. Number 564-50-9250

Address 3943-9TH ST (STREET) RIVERSIDE (CITY) CALIF (STATE) Phone No. OV 64033

Age 24 Date of Birth SEPT 15 1939 U. S. Citizen? YES ☒ NO ☐ Married? YES ☐ NO ☒

Dependents NONE In Case of Emergency, Notify MRS GEORGE FULLER Tel. OV 64033

Previously Employed Here? YES ☐ NO ☒ Relatives or Friends Working Here NONE

Have You Any Chronic Ailment? YES ☐ NO ☒ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☒ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: NONE

Grade School Attended BRYANT ELEMTARY	Grade Completed 6	Year of Graduation 1953	
High School Attended POLYTECHNIC	Grade Completed 12	Year of Graduation 1959	
College Attended	Grade Completed	Year of Graduation	

Kind of Work Desired Wages Expected MATCHED SK. 1/ per hr

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME CAL-ELECTRIC POWER	2.32 $	From AUG 1963	CURTAILMENT
ADDRESS 380 N. PEPPER ST RIALTO		To NOV 1963	
NAME THRIFTY DRUG STORE	2.00	From JUNE 63	CURTAILMENT
ADDRESS 360 N. MAIN ST CORONA		To July 63	
NAME USA SECURITY AGENCY	150.00 M	From NOV 59	HONORABLE
ADDRESS		To OCT 62	DISCHARGE
NAME		From	
ADDRESS		To	
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☒	Electric drill	☒
Electric saw	☒	Electric screwdriver	☒
Electric welder	☐	Unisheers	☐
Lathe	☒	Electric planer	☒
Spray paint equipment	☐	Fork lift	☐

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT James E. Fuller

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

PR G-66

[fol. 127]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 11-14-63

Reason for Termination _____ Date Terminated _____

*EMPLOYMENT RECORD

GROUP INSURANCE MANUAL RECEIVED _____

EMPLOYMENT MANUAL RECEIVED _____

GROUP ASSIGNMENT			RATE	EVALUATION				
	FROM	TO	OF PAY	PERFORMANCE				REMARKS
				E	G	F	P	
CA	11-11		1.20					off 2-3-64 Dr. called in hive
CA	12-4		1.75					off 2-5-6-64 called in sick
CA	1-6-64		1.80					count time sick 4-3-64 at 1.42
CA WALL TOOL	2-3-64		1.85			✓		5-4-64 off called in Lindale shop
								off 7-10-64 Ill noon, called in
								off 7-16-64 called in sick
								Less @ 1st 7-28-64
								Less @ 4th 7-30-64
								off 8-6-64 strike
								LATE 12-28-64 2 MIN

NATIONAL LABOR RELATIONS BOARD
EXHIBIT NO. [illegible]
CASE NO. [illegible]
NO. PAGES [illegible]
IN THE MATTER OF [illegible]
WITNESS [illegible]
DATE [illegible]

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

[fol. 128]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 3

SEPT 28-64

APPLICATION FOR EMPLOYMENT

Date 19 AUG 64

Name in Full (please print) JAMES ERVING FULLER S. S. Number 564-50-9250

Address 3948-4th ST (STREET) RIVERSIDE (CITY) CALIF. (STATE) Phone No. OR 64033

Age 24 Date of Birth 15 SEPT 1939 U. S. Citizen? YES ☒ NO ☐ Married? YES ☐ NO ☒

Dependents 0 In Case of Emergency, Notify MRS. GEORGE E. FULLER Tel. [illegible]

Previously Employed Here? YES ☒ NO ☐ Relatives or Friends Working Here NONE

Have You Any Chronic Ailment? YES ☐ NO ☒ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☒ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: _____

Grade School Attended _____ Grade Completed _____ Year of Graduation _____

High School Attended _____ Grade Completed _____ Year of Graduation _____

College Attended _____ Grade Completed _____ Year of Graduation _____

Kind of Work Desired CA Wages Expected _____ per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo Yr	Reason for leaving
NAME		From	
ADDRESS NATIONAL LABOR RELATIONS BOARD		To	
NAME CASE NO. 21-CA-6160 EXHIBIT NO. GC-3		From	
ADDRESS NO. RICE DISPOSITION		To	
NAME		From	
ADDRESS IN THE MATTER OF		To	
NAME DATE 2/17/65 WITNESS		From	
ADDRESS BY		To	
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☐	Electric drill	☐
Electric saw	☐	Electric screwdriver	☐
Electric welder	☐	Unisheers	☐
Lathe	☐	Electric planer	☐
Spray paint equipment	☐	Fork lift	☐

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

JEFX3

SIGNATURE OF APPLICANT _____

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

X-99-6

[fol. 129]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 4

CALLED 10-20-64 TO BE MONDAY AM

APPLICATION FOR EMPLOYMENT CAD SHOP

Date 5/8/64

Name in Full (please print) LUTHER J MALZAHN S. S. Number 298-03-9972

Address 11124 ORIOLE DRIVE RIVERSIDE (STREET, CITY, STATE) Phone No. 687-0780

~~11960 Jurupa Ave Riverside Calif~~

Age 52 Date of Birth 7/22/11 U. S. Citizen? YES ☑ NO ☐ Married? YES ☐ NO ☑

Dependents None In Case of Emergency, Notify Mrs Janet Swidart Tel.

Previously Employed Here? YES ☐ NO ☑ Relatives or Friends Working Here No

Have You Any Chronic Ailment? YES ☐ NO ☑ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☑ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: None

Grade School Attended		Grade Completed	Year of Graduation
High School Attended Washington High Massillon O.		Grade Completed 9 Th	Year of Graduation
College Attended		Grade Completed	Year of Graduation

Kind of Work Desired Maintenance Wages Expected per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME H.B. Fuller Co Inc Wis.	Low 1.60	From 1956	Moved to
ADDRESS 24 Plum Massillon O.		To 1964	Calif
NAME Schindler Const. Co	2.46	From 1957	
ADDRESS Massillon, Ohio		To 1958	Laid off
NAME Schroeder Paint Co	2.75	From 1956	
ADDRESS Massillon, Ohio		To 1957	Laid off
NAME Reynolds Building Mtl.	2.78	From 1958	
ADDRESS Canton, Ohio		To 1966	Laid off
NAME Republic Steel Corp.	2.41½	From 1936	Quit to go
ADDRESS Massillon, Ohio		To 1942	into armed forces

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☑	Electric drill	☑
Electric saw	☑	Electric screwdriver	☐
Electric welder	☐	Unisheers	☐
Lathe	☐	Electric planer	☐
Spray paint equipment	☑	Fork lift	☑

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT Luther J Malzahn

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

2-PR-6

[fol. 130]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 5-12-64

Reason for Termination _____ Date Terminated _____

*EMPLOYMENT RECORD

GROUP ASSIGNMENT			RATE	EVALUATION				
	FROM	TO	OF PAY	PERFORMANCE				REMARKS
				E	G	F	P	
CA	5-12-64		1.70					off 86-64 strike
" Radio Dept	6-1564		1.75			✓		
" "	7-13-64		1.80			✓		
								9-25-64 RECEIVED NOTICE FROM OHIO THAT HE HAD APPLIED FOR COMPEN IN OHIO

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

[fol. 131]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 5

~~Applicant~~ Sent Letter for 9-9-63 INS

APPLICATION FOR EMPLOYMENT

Date 8-8-63

Name in Full (please print) RONALD KENNETH HUTH S. S. Number 575-52-0707

Address ~~3674~~ 9222 PALM ROSE ST. ARLINGTON ~~6798 EAST MAGNOLIA AVE. RIVERSIDE~~ STATE Phone No.

Age 20 Date of Birth 1-9-43 U. S. Citizen? YES NO Married? YES NO

Dependents None In Case of Emergency, Notify Veronica Huth Tel. LA

Previously Employed Here? YES NO Relatives or Friends Working Here Raymond Tinsley

Have You Any Chronic Ailment? YES NO Have You Ever Been Convicted of Any Crime? YES NO If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: Vision in Left eye

Grade School Attended Mc KINLAY Grade Completed 8 th Year of Graduation

High School Attended Bell High Grade Completed 12 th Year of Graduation 1961

College Attended Grade Completed Year of Graduation

Kind of Work Desired Cabinet & Woodwork Wages Expected $1.65 per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME Royle Scot		From	
ADDRESS 13th & Market Riverside	$1.50	To	
NAME LA Mirada Car Wash	$1.25	From	
ADDRESS 1565 Magnolia BLV.		To	
NAME D & L Dairy	$1.00	From	
ADDRESS Long Beach BLVD, Canton		To	
NAME		From	
ADDRESS		To	
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☒	Electric drill	☐
Electric saw	☒	Electric screwdriver	☐
Electric welder	☐	Unisheers	☐
Lathe	☐	Electric planer	☐
Spray paint equipment	☐	Fork lift	☐

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT Ronald K Huth

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

PE-O-66

[fol. 132]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 9-9-63

Reason for Termination _____ Date Terminated _____

*EMPLOYMENT RECORD

GROUP INSURANCE MANUAL RECEIVED _____

EMPLOYMENT MANUAL RECEIVED _____

GROUP ASSIGNMENT			RATE OF PAY	EVALUATION				
	FROM	TO		PERFORMANCE				REMARKS
				E	G	F	P	
Ca	9-9-63		1.20					
	10-7		1.71					
	11-4		1.80					
	12-2		1.85			✓		2-10-64 PERMITTED INTERNATIONAL TO STAND UP ON HIS WORK CURRENT SUFFERS DAMAGE WHILE FOR THE FURNITURE (CHAMPION) HE MADE
								2-17-64 Carriage now ready to be made to order
								3-27-64 called in sick
								4-2-64 off to Zeke's Birthday Party
								4-9-64 late (47 min) overslept
								5-12-64 late (4 min)
								left 5-19-64 at 2:30 blood test
								left 5-22-64 for ½ hr accident & ins
								late 6-1-64 (12 min) overslept
								off 6-8+9-64 to get married
								late 6-25-64 (4 min) overslept
								late 7-8-64 (42 min) overslept
								late 7-15-64 (56 min) overslept
								late 7-20-64 (4 min) overslept
								late 7-29-64 (6 min) overslept
								off 8-6-64 strike

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

EXHIBIT NO. _____ DISPOSITION _____ WITNESS _____ DATE _____ BY _____

[fol. 133]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 6

MONDAY AM

APPLICATION FOR EMPLOYMENT

Date May 6, 1964

Name in Full (please print) DAVID WILLIAM DAVIS S. S. Number 560-62-4554

Address 24450 WEBSTER AVE (STREET) SUNNYMEAD (CITY) CALIF (STATE) Phone No. 653-1842 (NEXT DOOR)

Age 19 Date of Birth SEPT. 1, 1944 U. S. Citizen? YES [X] NO [ ] Married? YES [X] NO [ ]

Dependents 4 In Case of Emergency, Notify SHEILA M. DAVIS Tel. 653-1842

Previously Employed Here? YES [ ] NO [X] Relatives or Friends Working Here NONE

Have You Any Chronic Ailment? YES [ ] NO [X] Have You Ever Been Convicted of Any Crime? YES [ ] NO [X] If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: NONE

Grade School Attended SUNNYMEAD ELEMENTAY	Grade Completed 6	Year of Graduation	
High School Attended POLY HIGH SCHOOL.	Grade Completed 10	Year of Graduation	
College Attended	Grade Completed	Year of Graduation	

Kind of Work Desired TRAILER ASSEMBLER TRAINEE Wages Expected $1.70 per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME RICHARD MILLER	$1.35	From July 1963	Laid off
ADDRESS Adams Ave Riverside Calif		To Dec. 1963	
NAME MARCH AIR FORCE BASE EXCHANGE		From Aug. 1962	
ADDRESS MACHAR FORCE BASE Edgemont		To Oct. 1963	Laid off
NAME MERCHANTS FARMS		From Feb. 1964	Temporary
ADDRESS		To Feb. 1964	
NAME		From	
ADDRESS		To	
NAME		From	
ADDRESS		To	

~~NATIONAL LABOR RELATIONS BOARD~~
~~CASE NO. [illegible] EXHIBIT NO. GC-X-6~~
~~NO. PAGES [illegible] DISPOSITION [illegible]~~
~~IN THE MATTER OF [illegible]~~
~~DATE [illegible] WITNESS [illegible]~~
~~BY [illegible]~~

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	[X]	Electric drill	[X]
Electric saw	[X]	Electric screwdriver	[X]
Electric welder	[ ]	Unisheers	[ ]
Lathe	[X]	Electric planer	[ ]
Spray paint equipment	[X]	Fork lift	[ ]

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT David M Davis

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

I-PR-6

[fol. 134]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 5-6-64

Reason for Termination _____ Date Terminated _____

Rec Employment Manual *EMPLOYMENT RECORD

GROUP ASSIGNMENT			RATE	EVALUATION				
	FROM	TO	OF PAY	PERFORMANCE				REMARKS
				E	G	F	P	
EXT	5-6-64		1.70					off 6-19-64 no call in
EXT Painting	6-8-64		1.75			✓		late 6-29-64 29 min no call
" "	7-8-64		1.80			✓		off 7-8-64 called in sick
								late 7-20-64 (20 min)
								late 7-22-64 (4 hr.) sick
								late 7-27-64 (31 min)
								off 8-6-64 strike

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

[fol. 135]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 7

Applicant Resigning This was first

APPLICATION FOR EMPLOYMENT

CALLED 10-29 TO CALL BACK

Date July 15, 1964

Name in Full (please print) Lonnie Dean Painter S. S. Number 571-66-3778

Address 3784 (STREET) Pacific (CITY) Rubidoux (STATE) Phone No. OV-30487

Age 19 Date of Birth Nov. 17, 1944 U. S. Citizen? YES ☑ NO ☐ Married? YES ☐ NO ☑

Dependents 3 In Case of Emergency, Notify Donna Painter Tel. 30487

Previously Employed Here? YES ☐ NO ☑ Relatives or Friends Working Here _____

Have You Any Chronic Ailment? YES ☐ NO ☑ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☑ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: none

Grade School Attended West Riverside Grade Completed 6 Year of Graduation 1959

High School Attended Wrangell High, Alaska Grade Completed 12 Year of Graduation 1963

College Attended _____ Grade Completed _____ Year of Graduation _____

Kind of Work Desired _____ Wages Expected $ 1.70 per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME Rohr Corp.	2.03	From Jan. 1964	Lack of work
ADDRESS Riverside Calif.		To March 1964	
NAME National Riverside Heater Co	1.65	From Sep. 1963	Plant moved
ADDRESS 6th + Vine Riverside		To Jan. 1964	
NAME Mormans Carpet Service	1.50	From Jan. 1963	not enough hr.
ADDRESS 6099 Mission Blvd. Rubidoux		To Sep. 1963	
NAME		From	
ADDRESS		To	
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☑	Electric drill	☑
Electric saw	☑	Electric screwdriver	☐
Electric welder	☐	Unisheers	☑
Lathe	☐	Electric planer	☑
Spray paint equipment	☐	Fork Lift	☑

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT Lonnie Painter

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN any WAY OBLIGATE THE COMPANY

I-PS-4

[fol. 136]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 7-16-64

Reason for Termination LATE & ABSENT TOO MUCH Date Terminated 1-22-65

*EMPLOYMENT RECORD

GROUP ASSIGNMENT			RATE	EVALUATION				
	FROM	TO	OF PAY	PERFORMANCE				REMARKS
				E	G	F	P	
EXT-FIN	7-16-64		1.70					off 8-6-64 strike
								SEE other SHEET
								12-28-64 1 HR. Late
								1-5-65 Called in Sick
								1-6-65 OFF 3 HRS. SICK
								1-7+8 Did Not WORK
								WENT TO SEE LAWYER
								1-14-65 OFF 4 HOURS.
								1-18-65 OFF CAR WRECK
								1-19-65 2 HR 15 min. Late
								1-21-65 1 HR Late
								1-22-65 OFF Did Not Call in

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

[fol. 137]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 8

INS ✓

APPLICATION FOR EMPLOYMENT

Date NOV 4 1963

Name in Full (please print) MARY I NEVINS S. S. Number 454-38-1951

Address 1650 LE CONTE DR (STREET) RIVERSIDE (CITY) CALIF (STATE) Phone No. OV6-8754 / 688-4610

Age 35 Date of Birth AUG. 27, 1928 U. S. Citizen? YES ☐ NO ☐ Married? YES ☐ NO ☐

Dependents NONE In Case of Emergency, Notify WILLIAM E. NEVINS Tel. OV9-1502 377

Previously Employed Here? YES ☐ NO ☒ Relatives or Friends Working Here NO

Have You Any Chronic Ailment? YES ☐ NO ☒ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☒ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: NONE

Grade School Attended VALDASTA Grade Completed 8 Year of Graduation 1941

High School Attended BOYD HIGH SCHOOL Grade Completed 12 Year of Graduation 1945

College Attended _____ Grade Completed _____ Year of Graduation _____

Kind of Work Desired _____ Wages Expected _____ per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME SAN BERNARDINO BLUE PRINT		From 6/26/63	
ADDRESS 398 3rd ST SANBERNARDINO	1.65 PER HR	To 11/1/63	DUE TO WORK READ [illegible]
NAME RAHR CORP		From 10/58	
ADDRESS 8200 ARLINGTON	2.35 PER HR	To 6/62	DUE TO HOME READ [illegible]
NAME BOURNS LABATORIES		From 4/57	
ADDRESS 1200 COLUMBIA	1.50 PER HR	To 10/58	FOR DAY TIME WORK
NAME BOURNS LABATORIES		From 4/56	
ADDRESS 1200 COLUMBIA	1.35 PER HR	To 12/56	DUE TO PREGNANCY
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☐	Electric drill	☐
Electric saw	☐	Electric screwdriver	☐
Electric welder	☐	Unishears	☐
Lathe	☐	Electric planer	☐
Spray paint equipment	☐	Fork lift	☐

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT Mary I. Nevins

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN any WAY OBLIGATE THE COMPANY

PS-0-66

[fol. 138]

APPLICANT: DO NOT WRITE ON THIS SIDE

References checked by _____ Date started 11-5-63

Reason for Termination _____ Date Terminated _____

*EMPLOYMENT RECORD

GROUP INSURANCE MANUAL RECEIVED Mail 11

EMPLOYMENT MANUAL RECEIVED Mail 11

GROUP ASSIGNMENT			RATE	EVALUATION				
	FROM	TO	OF PAY	PERFORMANCE				REMARKS
				E	G	F	P	
Eff	11-5		1.70					Late 2 times w/e 2-2-64
	12-4		1.75					Late (3 min) 4 times w/e 2-16-64
	1-6-64		1.80					Late 2 times w/e 2-23-64
	2-3-64		1.85			✓		Late 3-13-64 (4 min)
								Late 3-18-64 (4 min)
								Late 3-30-64 (2 min)
								off 4-10-64 called in sick
								Late 4-22-64 (4 min)
								Late 4-29-64 (5 min) overstay
								Late 5-7-64 (2 min)
								Late 6-2-64 (2 min)
								off 6-29,30,1,2-64 maternity isolation
								off 7-16-64 called in sick
								Late 7-21-64 4 min
								off 8-6-64 strike

Forwarding Address _____

*INSTRUCTIONS:

1. Group Assignment—Indicate to what group employee assigned or transferred to in 1st column. Date of assignment to group in second column. Date of transfer, promotion, or termination in 3rd column.
2. Rate of Pay—Indicate rate of pay for assigned job.
3. Evaluation—(A) Performance—E - Excellent, G - Good, F - Fair, P - Poor. Check one.
   (B) Remarks—Indicate basis on which performance has been graded.

[fol. 139]

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 9

Called 9-26-64 Called 9-7-64

10-21-64 Came in 9-28-64 Came in

APPLICATION FOR EMPLOYMENT

Date 9-19-64

Name in Full (please print) NEVINS MARY I S. S. Number 456-38-1951

Address 1650 LE CONTE (STREET) RIVERSIDE (CITY) CALIF (STATE) Phone No. OV6-8775

Mother in law - OV 93220

Age ____ Date of Birth ____ U. S. Citizen? YES ☐ NO ☐ Married? YES ☐ NO ☐

Dependents ____ In Case of Emergency, Notify ____ Tel. ____

Previously Employed Here? YES ☐ NO ☐ Relatives or Friends Working Here ____

Have You Any Chronic Ailment? YES ☐ NO ☐ Have You Ever Been Convicted of Any Crime? YES ☐ NO ☐ If Yes, Give Details (WHEN, WHERE, DISPOSITION)

List Any Physical Defects That You Presently Have: ____

Grade School Attended ____ Grade Completed ____ Year of Graduation ____

High School Attended ____ Grade Completed ____ Year of Graduation ____

College Attended ____ Grade Completed ____ Year of Graduation ____

Kind of Work Desired SQUAK Wages Expected ____ per hour

GIVE BELOW THE NAMES AND ADDRESSES OF YOUR FORMER EMPLOYERS (list last employer first)

EMPLOYERS	HOURLY WAGE	Mo. Yr.	Reason for leaving
NAME		From	
ADDRESS NATIONAL LABOR RELATIONS BOARD		To	
NAME CASE NO. 21-CA-6460 EXHIBIT NO.		From	
ADDRESS NO. PAGES 1 DISPOSITION		To	
NAME IN THE MATTER OF Electrical Master		From	
ADDRESS		To	
NAME DATE WITNESS		From	
ADDRESS		To	
NAME		From	
ADDRESS		To	

Check the Tools and Equipment you have worked with:

Small hand tools (hammer, screwdriver, etc.)	☐	Electric drill	☐
Electric saw	☐	Electric screwdriver	☐
Electric welder	☐	Unisheers	☐
Lathe	☐	Electric planer	☐
Spray paint equipment	☐	Fork lift	☐

I hereby verify that the above statements are true and authorize the Company to investigate any of the information included on this application. It is understood that false statements may be sufficient cause for dismissal.

SIGNATURE OF APPLICANT ____

THE USE OF THIS BLANK DOES NOT INDICATE THERE ARE POSITIONS OPEN AND DOES NOT IN ANY WAY OBLIGATE THE COMPANY

8-PR-6

[fol. 140] BEFORE THE
NATIONAL LABOR RELATIONS BOARD

GENERAL COUNSEL'S EXHIBIT 11

GIBSON, DUNN & CRUTCHER
LAWYERS
634 South Spring Street
Los Angeles, California 90014
MADISON 0-9300

Cable Address: Gibtrask

November 2, 1964

Our File Number
L 5110-2-9

Mr. Bruce Berry
Attorney, National Labor
Relations Board
849 South Broadway
Los Angeles 14, California

Dear Mr. Berry:

I enclose herewith a statement showing the 21 employees hired during the strike at Fleetwood Trailer Company, the date of their hire, and the department to which they were assigned. Since we did not hire nearly as many replacements as the number of persons on strike, it is really impossible to supply a statement indicating which individual strikers the new employees replaced.

I hope this information will permit you to make an early disposition of this charge.

Very truly yours,

/s/ Hugh J. Scallon
HUGH J. SCALLON
for GIBSON, DUNN & CRUTCHER

HJS:rn
Enc.

• • • •

[fol. 141]

[TRADEMARK] 10-29-64

FLEETWOOD TRAILER CO., INC.
3200 Myers Street, Riverside, California 92503
P.O. Box 7728, Phone: 688-5353

EMPLOYEES HIRED DURING STRIKE PERIOD

NAME	DATE HIRED	Department
T. Chastain	8-11-64	Cabinet Setting
A. Combe	8-12-64	Cabinet Assembly
R. DeWitt	8-11-64	Floors
H. Herrera	8- 6-64	Floors
J. Hamilton	8-11-64	Cabinet Assembly
H. Hill	8-13-64	Cabinet Assembly
H. Huerata	8- 6-64	Floors
P. Husted	8- 7-64	Janitor
B. Jaure	8-11-64	Cabinet Assembly
R. Johnson	8-10-64	Cabinet Assembly
R. Matthews	8-13-64	Extra (Squwaking)
M. Peters	8- 6-64	Cabinet Assembly
H. Skaggs	8-13-64	Extra (Squawking)
R. Smith	8-13-64	Extra (Squawking)
F. Stratton	8-13-64	Sheet Metal
F. Uribe	8-13-64	Extra (Squawking)
B. Wilton	8- 6-64	Cabinet Assembly
D. Greek	8-13-64	Extra (Squawking)
D. Henderson	8-13-64	Cabinet Assembly
D. Fulk	8- 7 64	Sheetmetal
C. Burleson	8- 7-64	Sidewalls

/s/ C. D. Chapman
C. D. CHAPMAN
Plant Manager

[fol. 142] BEFORE THE
NATIONAL LABOR RELATIONS BOARD

RESPONDENT'S EXHIBIT 2

[TRADEMARK]

FLEETWOOD TRAILER CO., INC.

3200 Myers St., P.O. Box 7728,
Riverside, California 92503 • Phone: 688-5353

Production Schedule: July 1st, 1964, through Dec 20, 1964

Week Ending		
	7- 5-64	15 units
	7-12-64	17
	7-19-64	20
	7-26-64	17
	8- 2-64	18
	8- 9-64	12 (week of strike)
	8-16-64	7
	8-23-64	14
	8-30-64	14
	9- 6-64	12
	9-13-64	6
	9-20-64	12
	9-27-64	12
	10- 4-64	19
	10-11-64	14
	10-18-64	15
	10-25-64	16
	11- 1-64	16
	11- 8-64	16
	11-15-64	17
	11-22-64	19
	11-29-64	14
	12- 6-64	19
	12-13-64	20
	12-20-64	20

• • • •

[fol. 143] TXD-(SF)-48-65
Riverside, Calif.

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

DIVISION OF TRIAL EXAMINERS
BRANCH OFFICE

SAN FRANCISCO, CALIFORNIA

Case No. 21-CA-6160

FLEETWOOD TRAILER CO., INC.

and

LIONEL RICHMAN

BRUCE H. BERRY, ESQ., of Los Angeles, Calif., for the General Counsel.

GIBSON, DUNN & CRUTCHER, by HUGH J. SCALLON, ESQ., of Beverly Hills, Calif., for the Respondent.

BEFORE: WALLACE E. ROYSTER, Trial Examiner.

TRIAL EXAMINER'S DECISION—April 16, 1965

STATEMENT OF THE CASE

This matter was tried before me in Los Angeles, California, on February 17, 1965.[1] At issue is whether Fleetwood Trailer Co., Inc., herein the Respondent, since August 20, 1964,[2] has unlawfully discriminated against Mary Nevins, Lonny Painter, Luther Malzahn, James Fuller, David Davis and Ronald Kluth, by refusing to reemploy these individuals upon unconditional application following the termination of an economic strike.

Respondent, by its answer, asserts that these strikers had been permanently replaced prior to their applications and that no unfair labor practice was committed.

Upon the entire record in the case and from my observation of the witnesses, I make the following:

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[1] Charge filed and served September 10, 1964. Complaint alleging violations of Section 8(a)(1) and (3) of the Act issued December 11, 1964.

[2] All dates hereafter mentioned are in 1964.

FINDINGS OF FACT

I. The business of the Respondent

The Respondent is a California corporation engaged at Riverside, California, in the manufacture of mobile homes. Annually, it receives goods valued at in excess of $50,000 from points outside the State of California, and sells and [fol. 144] distributes products valued at more than that amount directly to points outside the State of California. It is conceded, and I find, that the Respondent is an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

II. The labor organization involved

San Bernardino-Riverside Counties District Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, herein the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. The unfair labor practices

On August 6, in support of the Union's bargaining demands, Respondent's employees began a strike which ended on August 18. During this period, some of those on strike returned to work and some new workers were hired. At the conclusion of the strike the Respondent had 71 employees on its payroll. On August 18, the respondent and the Union met with the result that the Union agreed to terminate the strike and accept Respondent's last contract offer. Attorney Jerome Byrne, the Respondent's representative, testified that on this occasion he told the Union representatives that the plant was not in need of employees and that no strikers could be given immediate employment. Byrne said that he would not put the strikers on a preferential hiring list but assured the Union that the Respondent would not discriminate in any way against them. Byrne said, in effect, that any striker who wished to return to work should make known his desire to the Respondent and renew his application at the expiration of succeeding 30-day periods if he maintained interest

in returning to work. Byrne made it clear to the Union, he testified, that the Respondent would consult the list of striker applicants whenever a vacancy developed, but that the Respondent would feel free to hire from any source.[3] On August 20, the six individual strikers named earlier in this Decision applied for reemployment. Before any of them was reemployed the Respondent hired, in the period from October 8 through October 16, six individuals who had not perviously been in Respondent's employ. It is the contention of the General Counsel that the six striker applicants should have been returned to work in these vacancies.

Before the strike began the Respondent had a work force of sufficient size (about 108) so that it programmed the building of 20 mobile homes a week. When the strike began, the Respondent decided to cut this programming in half and cancelled or postponed deliveries of supplies and materials consistent with this decision. With the return of some of the strikers before August 18 and the employment of new workers, it was decided to attempt the production of about 15 trailers a week. At all times it was Respondent's intention to return to the full production of 20 trailers as soon as a sufficiently experienced work force was assembled and materials were at hand. This goal was reached about December 13.

Respondent contends that at the expiration of the strike, because it had then no need for additional employees, all of the strikers had been replaced, that in consequence they thereafter had no employment rights with the Respondent and were entitled to no more than a nondiscriminatory [fol. 145] consideration of their applications for work. The position of the General Counsel is that the lack of need for additional workers on August 18 represented a temporary condition; that the striker applicants named herein had not then been replaced.

The six applicants visited the plant or telephoned the Respondent on a number of occasions on and after August 20. All were reemployed in the period from November 2 through December 14.

---

[3] The Union bowed to this decision.

The position of the Respondent that all of the strikers had been replaced permanently before they offered to return to work is based upon the circumstance that on August 20 the Respondent had no immediate need for more employees. This circumstance is not challenged by the General Counsel and I find it satisfactorily to be established by the evidence. If it is true that the strikers had been permanently replaced, as the Respondent contends, then the six applicants named in the complaint had lost any right to reinstatement or preferential hiring. This is the status, in the view of the Respondent, that they occupied. Each was required to register his continued interest in employment with the Respondent every month and failure to do so was "disqualifying." Respondent did not however apply this rule strictly and called to the attention of a Union representative the fact that some had failed to register within the set period. When these tardy ones appeared at the plant they were permitted to regain their status as applicants. However, in my view of the case, none of the six had been permanently replaced when they offered to return to work. There is no evidence that any person was hired during the strike specifically to fill the job of any of them. The lack of job openings on August 20 was a temporary condition which the Respondent knew would change and intended to change. It was its purpose, later achieved, to return to full production and to a full crew as soon as practicable. I think it thus inaccurate to say that any of the applicants concerned here had lost his employment with the Respondent by reason of replacement.

The Board has held that employees who have not been permanently replaced before the end of a strike must be reinstated to their former positions as work becomes available and before new employees are hired. This holding is qualified only by the condition that a refusal to reinstate may be justified upon a showing by the employer that he acted upon nondiscriminatory considerations.[4] The

[4] *Philanz Oldsmobile, Inc.*, 137 NLRB 867, 871. *Brown and Root, Inc., etc.*, 132 NLRB 486, 493-494, arises in a different factual setting. I find that holding concerning the right of reinstatement of economic strikers to jobs not open at the time of application not controlling here.

Respondent has undertaken to make that showing in respect to the six applicants.

The Respondent attempts to hire what it describes as willing workers, between the ages of 19 and 25, and with satisfactory employment histories. No particular experience is required.

The first hire after the end of the strike was of Eddie Latinsky as a cabinet assembler on October 8; the second, in the same classification, of Gilbert Herrara on October 12. Neither had worked at any earlier time for the Respondent and their qualifications for hire do not appear in the record. Of the six applicants named in the complaint, Malzahn, Kluth, Nevins and Fuller had worked in cabinet assembly before the strike. There is no testimony on the part of the Respondent to indicate why none of these (other than Fuller) was reinstated to the positions for which Latinsky and Herrara were hired.

[fol. 146] Also on October 12 Jimmy Benson was hired as a flooring employee and Everett Leffen as a sidewall employee. Plant Manager Cecil B. Chapman testified that Kluth, Nevins and Malzahn were not physically capable of handling these jobs and that for the same reason none of the three was qualified to handle the job of cabinet assembler for which Billy Valk was hired on October 16. Chapman also testified that the job of finisher, for which a new employee Dwayne Nash was hired on October 13, was unsuited to Nevins because she could not perform all of its functions; that he preferred to have a younger man than Malzahn on that job; and that he had "serious doubt" that Kluth, because of impaired eyesight could handle it. The qualifications of none of the newly hired employees is mentioned in the record.

Chapman testified that none of the striker applicants was disqualified for these job opportunities on the basis of their prior work records with "possibly one exception," Fuller. Chapman explained that Fuller was absent on a number of occasions but, more importantly, about a week before the strike began had engaged in a "small hassle" with his supervisor. The incident was reported to Chapman who considered that it "bordered on insubordination."

I note that no unfair labor practices are alleged other than in respect to bringing the striker applicants back to work and that, save for whatever inferences may be drawn from action or lack of action in that connection, no Union animus is alleged or shown. I am not convinced that the Respondent had a conscious purpose to discriminate against the strikers but I nonetheless find that it did so.

Basically, this discrimination consists in the Respondent's position that at the conclusion of the strike all strikers had been replaced. Thereafter, instead of treating those strikers who asked for reinstatement as their status required, the Respondent saw them only as applicants for employment who were entitled to no more than nondiscriminatory consideration for job openings. But they had a different standing—they were employees. Their right to employment was not enhanced by reason of the strike but as long as they were not permanently replaced, neither was it diminished. It does not appear that the Respondent considered Latinsky and Herrara to be better qualified to work in cabinet assembly than Nevins, Malzahn, Fuller or Davis; or that Benson, Leffen, Nash and Valk were better qualified as workmen than Painter or Fuller or Davis. Nevins could not handle a job unsuited to a female, Kluth could not work where normal eyesight was a requirement and Malzahn was disqualified only to the extent that any man of his age (53) might have been. I find that the six job openings in October could have been filled by the striker applicants and, had the Respondent considered them as employees rather than as mere applicants for hire, would have been so filled. This is so even though the Respondent had some reason for dissatisfaction with Fuller. The Respondent did not consider that he was disqualified for employment.

I find that by failing to return Lonny Painter, Luther Malzahn, David Davis, Mary Nevins, Ronald Kluth and James Fuller to employment when the October vacancies developed, the Respondent discriminated against these individuals because of participation in a lawful strike, thus discouraging membership in and activity on behalf of the Union. The Respondent has thereby engaged in unfair

labor practices within the meaning of Section 8(a)(3) of the Act.

[fol. 147] This conduct interfered with, restrained and coerced employees in the exercise of rights guaranteed in Section 7 of the Act and, I find, the Respondent thereby engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

IV. The effect of the unfair labor practices upon commerce

The actions of the Respondent described in Section III above, occurring in connection with its operations have a close, intimate and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Having found that the Respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the purposes of the Act. All of the affected individuals have been rehired and there is no claim that they were not fully reinstated. The Respondent shall make each whole for any loss of earnings attributable to the failure on the part of the Respondent to return them to employment in the period from October 8 through October 16. This loss shall be computed in the manner prescribed by the Board in *F. W. Woolworth Company*, 90 NLRB 289, and shall bear interest at the rate of 6 percent per annum computed quarterly.

On the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. The Union is a labor organization within the meaning of Section 2(5) of the Act.

2. The Respondent is an employer within the meaning of Section 2(2) of the Act, and is engaged in commerce or in an operation affecting commerce within the meaning of Section 2(6) and (7) of the Act.

3. By failing to return Painter, Matzahn, Davis, Nevins, Kluth and Fuller to employment in October 1964, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

RECOMMENDED ORDER

Upon the foregoing findings of fact and conclusions of law, and upon the entire record in the case, the undersigned recommends that Fleetwood Trailer Co., Inc., Riverside, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in or lawful strike activity in behalf of any labor organization by discrimination in regard to hire or tenure of employment or any term or condition of employment.

[fol. 148] (b) In any like or similar manner interfering with, restraining or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action which I find will effectuate the purposes of the Act:

(a) Make Painter, Malzahn, Davis, Nevins, Kluth and Fuller whole for any loss of earnings in the manner set forth in the portion of this Decision entitled "The remedy."

(b) Post at its plant in Riverside, California, copies of the notice attached hereto as an Appendix.[6] Copies of said notice to be furnished by the Regional Director for the Twenty-first Region shall, after being duly signed by

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[6] In the event these recommendations be adopted by the Board, the words "A DECISION AND ORDER" shall be substituted for the words, "THE RECOMMENDED ORDER OF A TRIAL EXAMINER" in the notice. In the further event that the Board's order be enforced by a decree of the United States Court of Appeals, the words, "A DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER" shall be substituted for the words, "A DECISION AND ORDER."

an authorized representative of the Respondent, be posted by it for a period of 60 consecutive days thereafter in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that such notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for the Twenty-first Region, in writing, within 20 days from the date of receipt of this Recommended Order what steps have been taken in compliance.[6]

Dated: April 16, 1965

/s/ Wallace E. Royster
Trial Examiner

[6] If these recommendations are adopted by the Board, this provision shall be modified to read: "Notify the Regional Director for the Twenty-first Region, in writing, within 10 days from the date of this Order what steps Respondent has taken to comply herewith."

[fol. 149] APPENDIX TO DECISION

NOTICE TO ALL EMPLOYEES

PURSUANT TO

The Recommended Order of a Trial Examiner of the

NATIONAL LABOR RELATIONS BOARD

and in order to effectuate the policies of the

NATIONAL LABOR RELATIONS ACT

we hereby notify our emloyees that:

WE WILL NOT discriminate against any employee because he has engaged in a lawful strike or has participated in concerted activity in behalf of any labor organization.

WE WILL make MARY NEVINS, LONNY PAINTER, LUTHER MALZAHN, JAMES FULLER, DAVID DAVIS and RONALD KLUTH whole for any loss of earnings attributable to the delay in returning them to work.

WE WILL NOT by discriminating against strikers or in any like or similar manner interfere with, restrain or coerce employees in the exercise of rights guaranteed in Section 7 of the Act.

FLEETWOOD TRAILER CO., INC.
(Employer)

Dated ..... By .....
(Representative) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 849 So. Broadway, Los Angeles, California (Telephone No.—688-5204).

[fol. 150]

D-8102
Riverside, Calif.

153 NLRB No. 43

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

Case No. 21-CA-6160

FLEETWOOD TRAILER CO., INC.

and

LIONEL RICHMAN.

DECISION AND ORDER—June 24, 1965

On April 16, 1965, Trial Examiner Wallace E. Royster issued his Decision in the above-entitled proceeding, finding that Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the National Labor Relations Act, as amended, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Respondent filed exceptions to the Decision and a supporting brief.

Pursuant to the provisions of Section 3(b) of the Act, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions and brief, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby adopts as its Order the Order recommended by the Trial Examiner, and orders that Fleetwood Trailer Co., Inc., Riverside, California, its officers, agents, successors,

and assigns, shall take the action set forth in the Trial Examiner's Recommended Order.[1]

Dated, Washington, D. C., June 24, 1965.

JOHN H. FANNING, Member

GERALD A. BROWN, Member

HOWARD JENKINS, JR., Member

National Labor Relations Board

(SEAL)

[1] The telephone number for Region 21, appearing at the bottom of the Appendix attached to the Trial Examiner's Decision, is amended to Read: Tel. No. 688-5229.

[fol. 151]

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

• • • •

[Minute entry of argument and submission—
June 8, 1966 Omitted in printing]

[fol. 152]

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

• • • •

[Minute entry of order directing filing of opinion, concurring opinion, dissenting opinion and filing and recording of decree—September 8, 1966 Omitted in printing]

[fol. 153]

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 20,511

NATIONAL LABOR RELATIONS BOARD, PETITIONER

vs.

FLEETWOOD TRAILER CO., INC., RESPONDENT

On Petition for Enforcement of an Order of the National Labor Relations Board

OPINION—September 8, 1966

BEFORE: POPE, BARNES and ELY, Circuit Judges

BARNES, Circuit Judge:

This is a petition for the enforcement of an order of the National Labor Relations Board. It had jurisdiction of the unfair labor practice complaint alleged in this case pursuant to 29 U.S.C. § 160(a)(b). This court has jurisdiction of this petition pursuant to 29 U.S.C. § 160(e).

Respondent is engaged in the manufacture of house trailers at Riverside, California. Respondent's employees are represented by the San Bernardino-Riverside Counties District Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. At the beginning of August 1964, respondent employed approximately one hundred and ten persons and was producing twenty mobile homes per week.

In late 1964 respondent was engaged in negotiations for a collective bargaining agreement with the union. On August 6, 1964, a number of respondent's production workers went on strike in support of their contract demands. Approximately one-half of respondent's employees either did not go on strike, or crossed the picket lines to return to work within a few days. Respondent imme-
[fol. 154] diately began to hire replacements for those who did strike and by August 18, 1964 had hired twenty-one new employees.

On August 18, 1964, the union agreed to end the strike and to accept respondent's last contract offer. The parties agreed that the strikers would not be put on a preferential hiring list but would be considered on a nondiscriminatory basis if they applied for employment. At the conclusion of the strike respondent did not return to its full pre-strike production force but determined to continue production with the crew of seventy-one which it had at the end of the strike. The six employees or former employees who are the complaining parties in these proceedings applied for employment on August 20, 1964. Between October 8 and October 16, 1964, respondent hired six new employees and passed over the strikers in doing so. The strikers were not rehired until December 1964.

On September 10, 1964 (before any hiring or any "passing over"), the complaining former employees filed a complaint with the NLRB. An amended complaint was filed in November 1964. Hearings were had before Trial Examiner Wallace E. Royster on February 17, 1965, and on April 16, 1965 the trial examiner filed his decision. In it he found that respondent had committed an unfair labor practice by treating its former employees as applicants for new employment without any employee status, in violation of section 8(a)(1) and (3) of the National Labor Relations Act. On June 24, 1965, a three member panel of the NLRB (Fanning, Brown, Jenkins) adopted the decision and recommendations of the trial examiner. This petition by the NLRB for enforcement of its order followed.

We first note that it is undisputed that there was in this case no conscious intent on the part of the employer to discriminate. The trial examiner so found, and the Board affirmed. With this in mind, we turn to specific facts.

The main issue at dispute in these proceedings is whether or not the complaining strikers had been replaced or their jobs absorbed while they were on strike. If their jobs had not been filled or eliminated due to a decrease in production, the strikers were entitled to be treated as employees and to be given preference over other job applicants.

[fol. 155] Section 8(a)(1) and (3) of the NLRA which respondent is alleged to have violated in hiring new appli-

cants before rehiring the six complaining strikers provides:

"§ 8. Unfair Labor Practices.

(a) It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

• • • •

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: . . . ."

The leading case interpreting this section held that the employer has a duty to reinstate those strikers who had not been permanently replaced, but need not remove replacements to reinstate the strikers. *N.L.R.B.* v. *Mackay Co.*, 304 U.S. 333 (1938).

The disagreement in the present proceedings centers on whether the jobs of the six complaining strikers had been filled so as to remove the requirement on respondent to rehire them on a preferential basis. Respondent contends that it cut back its labor force and production plans during and following the strike, and that as a result, the jobs of the strikers were either abolished or absorbed by other employees; and that such abolition or absorption amounts to replacement. Petitioner, on the other hand, contends that respondent intended to return to pre-strike production levels as soon as possible and that an employee who has been laid off retains his status as an employee and his right to preferential rehiring as long as he has a reasonable expectation of recall within the foreseeable future.

Respondent's contention that the abolition or absorption of a job is equivalent to replacement is a correct statement of the law. *Atlas Storage Division*, 112 NLRB 1175 (1955), enforced sub nom. *Chauffeurs, Team. & H., etc.* v. *N.L.R.B.*, 233 F.2d 233 (7th Cir. 1956). It remains to

be seen whether respondent's factual view of the case, or that of petitioner, is supportable. But before passing to [fol. 156] an examination of that question, we first desire to deal with petitioner's legal contention that an employee who has been laid off retains his status as an employee and his right to preferential rehiring as long as he has a reasonable expectation of recall to work within the foreseeable future. In support of this position petitioner cites *Servel, Inc.*, 65 NLRB 1067 (1946); *Hubbard & Co.*, 45 NLRB 1 (1942); *Drayer-Hanson Incorporated*, 86 NLRB 111 (1949); *Glenn I. Martin Co.*, 74 NLRB 546 (1947); *General Motors Corp.*, 113 NLRB 876 (1955); *Lima Hamilton Corp.*, 87 NLRB 455 (1949). All of these cases deal with the question of whether employees who had been laid off, but who (it was contended) would probably be recalled in the foreseeable future, *should be permitted to vote in a representation election.* To our knowledge the National Labor Relations Board has never applied this "reasonable expectation of recall within the foreseeable future" as a test to determine whether or not a striker has been replaced. And we are not inclined to do so. Many of these cases make it clear that the policy is based on the theory that employees who are quite certain to be recalled should be given a voice in selecting the bargaining agent who will represent them. Such an element does not here exist. An examination of the facts of the individual case seems preferable where the question is one of whether an employer has committed an unfair labor practice.

Turning to the factual merits of respondent's contention that the jobs of the complaining strikers had been absorbed or abolished as a result of reduced production following the strike, we are met at the outset with the existence of a Board decision laying down the rule that the question of whether or not a striker has been replaced is to be determined on the date on which the striker makes his offer to return to work. *Brown and Root, Inc., etc.*, 132 NLRB 486, 493 (1961). The trial examiner referred to this case and held that it was not controlling, without discussing why it was not controlling. (CT 13.) We cannot agree with the trial examiner. We find it difficult to approve the Board's cavalier use of precedent when it

desires to follow it, and the disregard of it when it wishes to achieve a different result. On the basis of the Board's own policy as stated in *Brown and Root, supra*, we hold that whether or not a vacancy exists must be determined at the time the strikers apply for work after the strike. [fol. 157] Tested by this standard the record in these proceedings is devoid of any evidence to establish that the jobs of the six complaining strikers were still available on August 20, 1964, when they applied for reinstatement. The respondent had made a decision during the strike to curtail production. The work force at the end of the strike numbered seventy-one employees, and despite the testimony of the administrative vice-president of respondent that the longest it would take to secure any supplies would be thirty days (RT 73), respondent did not hire any additional employees until October 8, 1964, at a point when its labor force had fallen to sixty-eight employees—three less than at the end of the strike on August 18.

Petitioner's only support for its argument that the jobs had not been filled, abolished, or absorbed with responses by officers of respondent to questions of the representative of the General Counsel to the effect that respondent intended "at sometime in the future" to increase production to twenty units per week:

> "Q But it was your intention to go back to twenty a week at some future time?
> "A Yes." (RT 72.)
> "Q And you did intend at all times to get production as quick as possible up to 20 trailers a week?
> "A Correct." (RT 111.)

But such an intent directed to the future is not determinative of the question of whether or not the jobs had been abolished, tested as of the date when the strikers applied for work, two days after the strike ended. Whatever its intent, respondent did not increase its work force until two months after the strike ended, and did not attain the pre-strike level of production until five months after the strike.[1] In light of these circumstances we do not find

[1] In *Atlas Storage Division*, 112 NLRB 1175 (1955), enforced sub nom. *Chauffeurs, Team, & H., etc.* v. *N.L.R.B.*, 233 F.2d 233 (7th

[fol. 158] that the General Counsel has established that the jobs of complainants had not been absorbed or that they were still available. Rather, we believe that the record demonstrates that the jobs had been abolished or absorbed for an indefinite time and only later were they recreated.

Having found that the General Counsel is unable to support the decision of the Board with substantial evidence on the record taken as a whole, we find it unnecessary to consider the effect of the nonpreferential rehiring agreement entered into between the respondent and the union. Whether that agreement excused respondent from rehiring the strikers even if their jobs had not been absorbed, as contended by respondent, or was insufficient to waive the employees' rights guaranteed them by the NLRA, or whether such rights could not be waived, as contended by petitioner, is not before us, and we express no opinion thereon.

Enforcement of the order is denied.

POPE, Circuit Judge, concurring:

I concur. I think it helpful to note just what the Board decided in *Brown and Root, Inc., etc.*, 132 NLRB 486, 493 (1961). It there held that the employer has no obligation to seek out or to prefer economic strikers for vacancies which opened up after their applications. The Board in that case cited *Atlas Storage Division*, 112 NLRB 1175, enforced, 233 F.2d 233, 237-238 (7th Cir.) which held that a company has no duty to seek out an economic striker when no vacancy existed at the time of his request to return to work, but rather opened up later. The Board in the later case went on to say that the em-

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Cir. 1956), the Board and court found that a striker's job had been absorbed and he was thus not entitled to preferential reinstatement when a job opening occurred only three days after he had made application for reinstatement. In *N.L.R.B.* v. *Roure-Dupont Mfg.*, 199 F.2d 631 (2d Cir. 1952), the court found the strikers' jobs had been absorbed when vacancies occurred one month after the strike ended. Obviously, here there was a longer period of time.

ployer's duty was merely to refrain from discriminating against the striker should he request employment again.

Plainly the holdings in those cases precisely fit the question raised here. When these complaining employees applied for re-employment on August 20th, 1964, there was no vacancy. Some of them reapplied later, but there is no proof that any vacancies existed at those times either. Under the rule of the above cases, the employer owed no duty to seek out or prefer these strikers for the positions that opened between October 8th and October 16th, 1964. [fol. 159] The examiner wholly disregarded these earlier rulings, saying "The Board has held that employees who have not been permanently replaced before the end of a strike must be reinstated to their former positions as work becomes available and before new employees are hired." That was an incorrect statement.

I do not question the right or power of the Board to change its rules from time to time. But when the employer here hired these six new employees, it did exactly what the Board had held it had the right to do. To change its declared policy, and make the change apply retroactively to the respondent's acts which were entirely proper when performed was arbitrary, capricious and an abuse of discretion—the sort of thing the Administrative Procedure Act, Title 5, § 1009(e), directs us to set aside. In *National Labor Relations Board* v. *Guy F. Atkinson Co.*, 195 F.2d 141, 149 (9th Cir.), we said

> We think it apparent that the practical operation of the Board's change of policy, when incorporated in the order now before us, is to work hardship upon respondent altogether out of proportion to the public ends to be accomplished. The inequity of such an impact of retroactive policy making upon a respondent innocent of any conscious violation of the act, and who was unable to know, when it acted, that it was guilty of any conduct of which the Board would take cognizance, is manifest. It is the sort of thing our system of law abhors.

ELY, Circuit Judge, Dissenting:

I do not agree with the result reached in the majority opinion, and I cannot accept the reasoning which produces it.

When a workman chooses to join his fellows in an economic strike he takes certain risks. Among these is the risk that he may be unable to regain his position after the strike if another workman has permanently replaced him. *E.g., NLRB* v. *Mackay Radio & Tel. Co.*, 304 U.S. 333, 345-46, 82 L. Ed. 1381, 58 Sup. Ct. 904 (1938). There were no permanent replacements in the jobs in question here, but it is said that the striking employees lost their preferential status because their jobs were "abolished" or their work was "absorbed" by other employees. This I cannot see. Before the strike, there were [fol. 160] about one-hundred-ten employees. When the strike ended the number had decreased to seventy-one. It is undisputed that the employer always held the intent to resume full production as quickly as possible following the termination of the strike and, with the same haste, to return to the full complement of its prestrike labor force.

When the strike was terminated, the six employees here involved, almost immediately, made applications for reinstatement into their positions. The majority holds that these applications were ineffective because the employer did not yet, at the very time the applications were received, have the jobs available. In the light of the employer's expressed intention to fill the positions "as quickly as possible", this holding cannot, I submit, be justified. I would hold that reinstatement applications of economic strikers should continue in operative effect until the time when the normal course of resumed production creates the necessity to accomplish the intended reopening of jobs which have remained unabolished and not permanently absorbed and in which there have not been permanent replacements.

No other persons had replaced the striking workmen in the jobs which they had held before the strike and which they resought after the economic differences had been adjusted. Their jobs had not been "abolished", for "abolish" means "to do away with wholly" or "to destroy complete-

ly". The fact that the challenged hirings were made within about six weeks after the strike had terminated should conclusively establish that the work of at least three jobs [1] had not been permanently "absorbed" by others. If a striking workman should not be denied his preferential rights unless there has been a permanent replacement, then he should not be denied those rights unless there has been complete abolition of his job or permanent absorption of his work by others. There was no such permanence here.

The Board has made factual determinations, which, if supported by substantial evidence, we are obliged to uphold. 29 U.S.C. § 160(e); *NLRB* v. *Mrs. Fay's Pies*, 341 F.2d 489, 492 (9th Cir. 1965). As I see the evidence, it is so substantial in its support that the Board's decision, in its principal thrust, was compelled.

[fol. 161] I believe that my Brothers misapply the decisions in two cases, the facts in neither of which I can see as being analogous to those before us. One, *Chauffeurs Local 200* v. *NLRB*, 233 F.2d 233 (7th Cir. 1956), enforcing the order in *Atlas Storage Division*, 112 N.L.R.B. 1175 (1955), dealt with a job wherein the work of the economic striker who formerly occupied it had been permanently absorbed. It was held that the striker was not entitled to reinstatement in a job which the employer, for economic reasons, had abolished or the work of which had been absorbed. The court held that so long as the employer did not discriminate against the striker in rehiring, it had no obligation to seek him out. The striker sought to replace an employee who had been injured. The job was not, as were those here, one which had become available as the employer followed the course of expressed intention to rebuild its labor force and production to the prestrike level. There is no indication in the cited opinion that the employer intended to or actually did resume its prestrike labor force, and the court in no way indicated that it would approach the two situations in a similar manner.

The second case involved economic strikers who had been permanently replaced during a strike. *Brown and*

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[1] See footnote 2, *infra*.

Root, Inc., 132 N.L.R.B. 486, 493 (1961). The number of the replacements exceeded the number of striking workers. These are significant facts, and they are contrary to the facts in the case at bar. When, in *Brown and Root*, the Board wrote, "In the circumstances of this case, we hold that [the employers] had no obligation to seek out or prefer the [economic] strikers for vacancies which opened up after their application. . . .", its remarks were clearly directed to the facts before it. Inasmuch as the labor force in *Brown and Root, Inc.* exceeded the prestrike number at the time of the strikers' applications for reinstatement, it seems undeniable that the vacancies occurred because of the need to replace workmen who had already permanently replaced the striking workmen.

If I have properly distinguished the cited cases from the present case, as I believe I have, the majority's direct and rather severe criticism of the Board is unjustified.

The right to strike is a precious right. It is, too often, the workman's only weapon and his only shield against oppression. The majority opinion can have no other effect [fol. 162] than to intimidate those who believe themselves to be economically aggrieved, especially those who, for long tenure, have earned valuable benefits which they should not be required to expose to new risks, judicially created or enlarged by an inferior tribunal. It seems to me that our court now imposes an unnecessarily restrictive impairment upon the free and lawful exercise of a laborer's will.

I would enforce the order of the Board.[2]

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[2] The majority opinion reveals that when the reinstatement applications were made, there was a labor force of seventy-one and that when the October hirings occurred the number had decreased to sixty-eight. Therefore, as to the six hirings of that time, three of the available jobs might be found to be of the same nature as those in *Brown and Root, Inc., supra, i.e.*, jobs vacated by three permanent replacements. If this were true, then I would not, of course, enforce the order, as written, in its entirety.

If the views expressed in my dissenting opinion had been shared by one of my Brothers it would then have been necessary to face, four-square, the effect of the nonpreferential hiring agreement between the union and the employer. No present purpose could be served by an indication of my opinion on this question.

[fol. 163]

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 20,511

[File Endorsement Omitted]

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

FLEETWOOD TRAILER CO., INC., RESPONDENT

DECREE—Filed September 8, 1966

BEFORE: POPE, BARNES and ELY, Circuit Judges:

This cause came on to be heard upon the petition of the National Labor Relations Board, filed November 12, 1965, to enforce an order of the National Labor Relations Board issued by it on June 24, 1965, against the Fleetwood Trailer Company, Inc., Riverside, California, its officers, agents, successors and assigns.

This Court heard argument of respective counsel on June 8, 1966, and has considered the briefs and transcript of record filed in this cause. On September 8, 1966, the Court being fully advised in the premises handed down its decision; in conformity thereto, it is hereby

ORDERED, ADJUDGED AND DECREED by the United States Court of Appeals for the Ninth Circuit that the enforcement of the order of the Board be and hereby is denied.

[fol. 164]

[Clerk's Certificate to foregoing transcript omitted in printing]

[fol. 165]

SUPREME COURT OF THE UNITED STATES

No. ——, October Term, 1966

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

FLEETWOOD TRAILER CO.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—December 8, 1966

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing a petition for writ of certiorari in the above entitled cause be, and the same is hereby, extended to and including Feb. 5, 1967

/s/ Wm. O. Douglas
Associate Justice of the Supreme
Court of the United States

Dated this 8th
day of December, 1966

[fol. 166]

SUPREME COURT OF THE UNITED STATES

No. 1036, October Term, 1966

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

FLEETWOOD TRAILER CO., INC.

ORDER ALLOWING CERTIORARI—April 10, 1967

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1967 264066 917